

# **DISTRICT OF COLUMBIA CODE**

**ANNOTATED**

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**1981 EDITION**

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**1999 SUPPLEMENT**

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UPDATING THE LAWS, GENERAL AND PERMANENT IN THEIR NATURE,  
RELATING TO OR IN FORCE OR FINALLY ADOPTED IN THE DISTRICT  
OF COLUMBIA (EXCEPT SUCH LAWS AS ARE OF APPLICATION IN  
THE DISTRICT OF COLUMBIA BY REASON OF BEING GENERAL  
AND PERMANENT LAWS OF THE UNITED STATES), AS OF  
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ADOPTED AS OF MARCH 31, 1999, REORGANIZATION  
PLANS NOT DISAPPROVED AS OF  
DECEMBER 31, 1998, AND NOTES TO  
DECISIONS REPORTED AS OF  
MARCH 1, 1999

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Prepared and Published Under Authority of the Council of the District  
of Columbia as supervised by the Office of the General Counsel,  
Charlotte M. Brookins-Hudson, General Counsel.  
Brian K. Flowers, Legislative Counsel.  
Benjamin F. Bryant, Jr., Codification Counsel.  
Karen R. Westbrook, Codification Assistant.

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# TITLE 16. PARTICULAR ACTIONS, PROCEEDINGS AND MATTERS.

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## CHAPTER 3. ADOPTION.

Sec.

16-309. Adoption proceedings.

16-312. Legal effects of adoption.

### § 16-302. Persons who may adopt.

**Cited in** In re J.D.W., App. D.C., 711 A.2d 826 (1998).

### § 16-304. Consent.

**Parental consent withheld contrary to best interest of child.**

Court permissibly focused decision on natural mother's reasons for withholding consent where she emphasized that her express purpose in granting consent to one couple was to "lash out at" another couple actively being considered as adoptive parents. In re J.D.W., App. D.C., 711 A.2d 826 (1998).

Where consent of the natural parent in favor of one party is made to the express exclusion of another party actively engaged in adoption discussions with that parent, such exclusion is tantamount to a withholding of consent and may be treated as constructive withholding. In re J.D.W., App. D.C., 711 A.2d 826 (1998).

**Cited in** In re F.N.B., App. D.C., 706 A.2d 28 (1998).

### § 16-305. Petition for adoption.

**Cited in** In re J.D.W., App. D.C., 711 A.2d 826 (1998).

### § 16-307. Investigation, report, and recommendation.

**Emergency act amendments.** — For temporary provisions requiring, on an emergency basis, criminal background investigations for individuals residing in foster family homes or other homes in which children are placed by order, see §§ 2-15 of the Criminal Background Investigation for the Protection of Children

Emergency act of 1998 (D.C. Act 12-431, August 6, 1998, 45 DCR 5915) and §§ 2-11 of the Criminal Background Investigation for the Protection of Children Legislative Review Emergency Act of 1998 (D.C. Act 12-505, November 20, 1998, 45 DCR 8134).

### § 16-309. Adoption proceedings.

(a) Within a period of ninety days, or such time as extended by the court, after a copy of the petition and the order providing for the report is served upon the agency directed to make the investigation, the agency shall make the report and recommendation required by section 16-307 to the court and thereupon the court shall proceed to act upon the petition.

(b) After considering the petition, the consents, and such evidence as the parties and any other properly interested person may present, the court may enter a final or interlocutory decree of adoption when it is satisfied that:

(1) the prospective adoptee is physically, mentally, and otherwise suitable for adoption by the petitioner;

(2) the petitioner is fit and able to give the prospective adoptee a proper home and education;

(3) the adoption will be for the best interests of the prospective adoptee; and

(4) the adoption form has been completed by the petitioner pursuant to section 10 of the Vital Records Act of 1981.

(b-1) In determining whether the petitioner will be able to give the prospective adoptee a proper home and education, the court shall give due consideration to any assurance by the Mayor that he will provide or contribute funds for the necessary maintenance or medical care of the prospective adoptee under an adoption subsidy agreement under § 3-115.

(c) A final decree of adoption may not be entered unless the prospective adoptee has been living with the petitioner for at least six months.

(d) If it appears to be in the interest of the prospective adoptee, the court may enter an interlocutory decree of adoption, which shall by its terms automatically become a final decree of adoption on a day therein named, not less than six months nor more than one year, from the date of entry of the interlocutory decree, unless in the interim the decree shall have been set aside for cause shown. The supervising agency shall be permitted to visit the adoptee during the period of the interlocutory decree.

(e) The court may revoke its interlocutory decree for good cause shown at any time before it becomes a final decree, either on its own motion or on the motion of one of the parties to the adoption. Before the revocation, notice shall be given thereof to all those persons or parties who were given notice of the original petition for adoption, and an opportunity for all of them to be heard.

(f) All proceedings with reference to adoption shall be of a confidential nature and shall be held in chambers or in a sealed courtroom with as little publicity as the court deems appropriate. (Dec. 23, 1963, 77 Stat. 540, Pub. L. 88-241, § 1; 1973 Ed., § 16-309; Jan. 2, 1974, 87 Stat. 1061, Pub. L. 93-241, § 2(b); Oct. 8, 1981, D.C. Law 4-34, § 29(e), 28 DCR 3271; Mar. 24, 1998, D.C. Law 12-81, § 10(a), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 redesignated the former second paragraph of (b) as (b-1); and validated a previously made technical correction.

**Legislative history of Law 12-81.** — Law 12-81, the “Technical Amendments Act of 1998,” was introduced in Council and assigned Bill No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the

Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

**Factors in determination of best interests of child.**

Where two families are deemed qualified to adopt a child, the court may take note of factors which might otherwise be of little or no import. In re J.D.W., App. D.C., 711 A.2d 826 (1998).

## § 16-311. Sealing and inspection of records and papers.

Cited in In re J.D.W., App. D.C., 711 A.2d 826 (1998).

## § 16-312. Legal effects of adoption.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 10(b), 45 DCR 745.)



**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in (a).

**Legislative history of Law 12-81.** — See note to § 16-309.

**Adoptive parent is “natural” parent.** — An adoptive father became the “natural parent” of the children at the time of the adoption; thus, he was entitled to the same legal presumption of custody that all other natural parents have, including the provision that when one parent dies, the natural guardianship devolves upon the other. *A.J. v. L.O.*, App. D.C., 697 A.2d 1189 (1997).

**Termination of parental rights of biological parents.** — Termination of biological parents’ parental rights in an adoption proceeding

changed the biological parents into legal strangers to their children; thus, in order to regain custody of the children from the adoptive parents, the biological parents had to allege unfitness, abandonment, or some other special circumstances. *A.J. v. L.O.*, App. D.C., 697 A.2d 1189 (1997).

**Requirements for biological parents to regain custody.** — Where children had been living with their legal adoptive parent for approximately five years, the biological parents had to prove parental unfitness to regain custody of the children. *A.J. v. L.O.*, App. D.C., 697 A.2d 1189 (1997).

**Cited in** *Lewis v. Lewis*, App. D.C., 708 A.2d 249 (1998).

CHAPTER 5. ATTACHMENT AND GARNISHMENT.

*Subchapter I. Attachment and Garnishment Generally.*

Sec.  
16-501. Attachment before judgment; affidavit and bond.

*Subchapter III. Attachment and Garnishment of Wages, etc.*

Sec.  
16-572. Attachment of wages; percentage limitations; priority of attachments.

*Subchapter I. Attachment and Garnishment Generally.*

§ 16-501. Attachment before judgment; affidavit and bond.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 10(c), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in (c)(1).

**Legislative history of Law 12-81.** — Law 12-81, the “Technical Amendments Act of 1998,” was introduced in Council and assigned Bill No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

**Appellate review.** — A debtor’s challenge to a writ of attachment, on the grounds that the attachment did not meet the requirements of this section or § 16-509, would not be reviewed by the appellate court because it was not timely raised before the trial court; the debtor did not move to quash the attachment and did not avail herself of the other statutory remedies to challenge the attachment. *Corto v. National Scenery Studios, Inc.*, App. D.C., 705 A.2d 615 (1997).

**Cited in** *Pallie v. Riggs Nat’l Bank*, App. D.C., 697 A.2d 1239 (1997).

§ 16-509. Attachment of personal property; undertaking by defendant or person in possession.

**Appellate review.** — A debtor’s challenge to a writ of attachment, on the grounds that the attachment did not meet the requirements of this section or § 16-501, would not be reviewed by the appellate court because it was not timely raised before the trial court; the debtor did not

move to quash the attachment and did not avail herself of the other statutory remedies to challenge the attachment. *Corto v. National Scenery Studios, Inc.*, App. D.C., 705 A.2d 615 (1997).

**§ 16-517. Attachment of other property in replevin action.**

Cited in *Voytsechovska v. Albert*, 126 WLR 849 (Super. Ct. 1998).

**§ 16-520. Defending against the attachment; trial of issues.**

**Standing.** — A debtor lacked standing to assert absent creditors' perfected security interests in property attached by another creditor; the absent creditors' interests were not the debtor's interests, and were, in fact, contrary to

her interests. *Corto v. National Scenery Studios, Inc.*, App. D.C., 705 A.2d 615 (1997).

Cited in *Visions Found., Inc. v. Falcon Color, Inc.*, App. D.C., 606 A.2d 1027 (1992).

**§ 16-523. Claims to attached property.**

**Standing.** — A debtor lacked standing to assert absent creditors' perfected security interests in property attached by another creditor; the absent creditors' interests were not the debtor's interests, and were, in fact, contrary to

her interests. *Corto v. National Scenery Studios, Inc.*, App. D.C., 705 A.2d 615 (1997).

Cited in *First Sav. Bank v. Barclays Bank*, App. D.C., 618 A.2d 134 (1992).

***Subchapter II. Attachment and Garnishment After Judgment in Aid of Execution.*****§ 16-545. Multiple attachments against same judgment debtor.**

Cited in *Goldsmith v. William S. Bergman Assocs.*, App. D.C., 708 A.2d 640 (1998).

**§ 16-554. Claims to attached property.**

Cited in *Goldsmith v. William S. Bergman Assocs.*, App. D.C., 708 A.2d 640 (1998).

**§ 16-556. Judgment against garnishee.**

Cited in *FDIC v. Interdonato*, 988 F. Supp. 1 (D.D.C. 1997).

***Subchapter III. Attachment and Garnishment of Wages, etc.*****§ 16-571. Definitions.**

**Box office receipts not "wages."** — The record was sufficient to support the trial court's finding that box office receipts did not fall within the statutory definition of "wages" be-

cause they did not constitute compensation for personal services. *Corto v. National Scenery Studios, Inc.*, App. D.C., 705 A.2d 615 (1997).

## § 16-572. Attachment of wages; percentage limitations; priority of attachments.

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(Dec. 23, 1963, 77 Stat. 555, Pub. L. 88-241, § 1; Dec. 17, 1971, 85 Stat. 678, Pub. L. 92-200, § 6; 1973 Ed., § 16-572; Apr. 30, 1988, D.C. Law 7-104, § 4(f), 35 DCR 147; Mar. 24, 1998, D.C. Law 12-81, § 10(d), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction.

**Legislative history of Law 12-81.** — See note to § 16-501.

**Box office receipts not “wages.”** — The

record was sufficient to support the trial court’s finding that box office receipts did not fall within the statutory definition of “wages” because they did not constitute compensation for personal services. *Corto v. National Scenery Studios, Inc.*, App. D.C., 705 A.2d 615 (1997).

## § 16-573. Employer’s duty to withhold and make payments; percentage.

Cited in *First Va. Bank v. Randolph*, 110 F.3d 75 (D.C. Cir. 1997).

## § 16-575. Judgment against employer-garnishee for failure to pay percentages.

**Federal government exempt.** — Even though 5 U.S.C. § 5520a(b) incorporates this section, which renders private employers strictly liable for failure to pay a judgment creditor the percentage of an employee’s wages

subject to garnishment, it does not subject the federal government to damage actions by a judgment creditor for failing to withhold the pay of a federal employee. *First Va. Bank v. Randolph*, 110 F.3d 75 (D.C. Cir. 1997).

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# CHAPTER 7. CRIMINAL PROCEEDINGS IN THE SUPERIOR COURT.

Sec.

16-703. Process of Criminal Division; fees.

## § 16-703. Process of Criminal Division; fees.

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(Mar. 24, 1998, D.C. Law 12-81, § 10(e), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in (e).

**Legislative history of Law 12-81.** — Law 12-81, the “Technical Amendments Act of 1998,” was introduced in Council and assigned Bill No. 12-408, which was referred to the Commit-

tee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

## § 16-704. Bail; collateral security.

**“Post and forfeiture” procedure.** — The “post and forfeiture” procedure in minor criminal or traffic offenses (1) is duly authorized by

both statute and rule of court as an appropriate and legal method of terminating such cases, (2) is not an inchoate right, but a privilege recog-



nized by law, court fiat, and longstanding practice, and (3) may be objected to by the government when requested by a given defendant, or even revoked at a later date. District of Columbia v. Baylor, 125 WLR 1665 (Super. Ct. 1997).

The theory behind the "post and forfeiture" process is that in cases of most petty offenses, the defendant is permitted to "post" a security upon release to ensure his return to court for a prospective trial, but then in lieu of appearing for trial, he may then "forfeit" the collateral as a kind of vicarious fine paid, without admitting or adjudicating any criminal or other liability. District of Columbia v. Baylor, 125 WLR 1665 (Super. Ct. 1997).

The legislative branch has established the principle of "posting and forfeiting" collateral, but has left it to the judicial branch, which sets bonds as part of its intrinsic powers and duties, to promulgate a schedule of bond and collateral amounts for various petty offenses and infractions. District of Columbia v. Baylor, 125 WLR 1665 (Super. Ct. 1997).

The "post and forfeiture" procedure is not a right, but a privilege extended as a matter of pragmatic resolution of the vast corpus of cases coming before the superior courts. District of Columbia v. Baylor, 125 WLR 1665 (Super. Ct. 1997).

## § 16-705. Jury trial; trial by court.

### I. GENERAL CONSIDERATION.

Cited in Johnson v. United States, App. D.C., 701 A.2d 1085 (1997).

### II. CONSTITUTIONAL RIGHT TO JURY.

**Subsection (b) not violative of constitutional right to jury.** — The misdemeanor streamlining provisions found in subsection (b) of this section do not violate a defendant's constitutional right to a jury trial. Johnson v. United States, App. D.C., 700 A.2d 240 (1997).

### IV. NUMBER OF JURORS.

**Extraordinary circumstances.** — The death of a de facto parent who raised the juror constitutes "extraordinary circumstances" within the meaning of the Jury Trial Amendment Act of 1994, and thus allows the court to excuse that juror and resume deliberations with only eleven jurors. Salmon v. United States, App. D.C., 719 A.2d 949 (1998).

## § 16-711. Restitution or reparation.

**Damages may not include pain and suffering.**

Trial court's inclusion of restitution to compensate victim for pain and suffering was impermissible under this section, as construed by Sloan v. United States, 527 A.2d 1277 (D.C.

1987), and was correctible by means of a Rule 35 motion. Southall v. United States, App. D.C., 716 A.2d 183 (1998).

Cited in Stone v. District of Columbia Dep't of Emp. Servs., App. D.C., 707 A.2d 789 (1998).

## CHAPTER 9. DIVORCE, ANNULMENT, SEPARATION, SUPPORT, ETC.

Sec.

16-901. Definitions.

16-904. Grounds for divorce, legal separation, and annulment.

16-909.3. Paternity acknowledgment program requirements for birthing hospitals.

Sec.

16-911. Alimony pendente lite; suit money; enforcement; custody of children.

16-914. Retention of jurisdiction as to alimony and custody of children.

16-916.1. Child Support Guideline.

16-924. Expedited judicial hearing.

## § 16-901. Definitions.

For the purposes of this chapter, the term:

\* \* \* \* \*

(2) "IV-D agency" means a District of Columbia agency responsible for the establishment and enforcement of a child support order and the establishment of paternity for Temporary Assistance for Needy Families, Program on Work,



Employment, and Responsibility, or other public assistance recipients and nonpublic assistance recipients pursuant to Title IV, Part D of the Social Security Act, approved January 4, 1975 (88 Stat. 2351; 42 U.S.C. 651 et seq.).

\* \* \* \* \*

(Apr. 20, 1999, D.C. Law 12-241, § 9, 46 DCR 905.)

**Effect of amendments.** — D.C. Law 12-241 substituted “Temporary Assistance for Needy Families, Program on Work, Employment, and Responsibilities, or other public assistance recipients and nonpublic assistance” for “Aid to Families with Dependent Children (AFDC) and non-AFDC” in (2).

**Temporary amendment of section.** — Section 5(b) of D.C. Law 12-103 amended (2) to read as follows:

“For the purposes of this chapter, the term:

\*\*\*\*\*

“(2) ‘TV-D agency’ means the organizational unit of the District government, or any successor organizational unit, that is responsible for administering or supervising the administration of the District’s State Plan under title IV, Part D, of the Social Security Act, approved January 4, 1975 (88 Stat. 2351; 42 U.S.C. 651 et seq.) pertaining to parent locator services, paternity establishment, and the establishment, modification, and enforcement of child support orders and spousal support orders in which the spouse or former spouse is living with a child for whom the spousal support obligor also owes support.”

Section 16(b) of D.C. Law 12-103 provides that the act shall expire after 225 days of its having taken effect.

Section 5(b) of D.C. Law 12-210 substituted “Temporary Assistance for Needy Families, Programs in Work Employment and Responsibilities, or other public assistance recipients and nonpublic assistance” for “Aid to Families with Dependent Children (‘AFDC’) and non-AFDC” in (2).

Section 15(b) of D.C. Law 12-210 provided that the act shall expire after 225 days of its having taken effect.

Section 9 of D.C. Law 12-230 substituted “Temporary Assistance for Needy Families, Programs in Work Employment and Responsibilities, or other public assistance recipients and nonpublic assistance” for “Aid to Families with Dependent Children (‘AFDC’) and non-AFDC” in (2).

Section 18(b) of D.C. Law 12-230 provides that the act shall expire after 225 days of its having taken effect.

**Emergency act amendments.** — For temporary amendment of section, see § 5(b) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1997 (D.C. Act

12-222, December 23, 1997, 44 DCR 114), § 5(b) of the Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-309, March 20, 1998, 45 DCR 1923), § 5(b) of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110), § 5(b) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-503, October 27, 1998, 45 DCR 8495), and § 5(b) of the Child Support and Welfare Reform Compliance Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-600, January 20, 1999, 46 DCR 1239).

Section 16 of D.C. Act 12-309 provides for the application of the act.

Section 15 of D.C. Act 12-503 provides for the application of the act.

For temporary amendment of section, see § 9 of the Self-Sufficiency Promotion Emergency Amendment Act of 1998 (D.C. Act 12-372, June 9, 1998, 45 DCR 4270), § 9 of the Self-Sufficiency Promotion Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-425, July 31, 1998, 45 DCR 5682), § 9 of the Self-Sufficiency Promotion Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-552, December 24, 1998, 46 DCR 521), and § 9 of the Self-Sufficiency Promotion Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-19, February 17, 1999, 46 DCR 2492).

Section 17 of D.C. Act 12-552 provides for the application of the act.

Section 18 of D.C. Act 13-19 provides for the application of the act.

For temporary repeal of D.C. Law 12-103, see § 13 of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110).

**Legislative history of Law 12-103.** — Law 12-103, the “Child Support and Welfare Reform Compliance Temporary Amendment Act of 1998,” was retained by Council and assigned Bill No. 12-365. The Bill was adopted on first and second readings on December 4, 1997, and January 6, 1998, respectively. Signed by the Mayor on January 30, 1998, it was assigned Act No. 12-279 and transmitted to both Houses of Congress for its review. D.C. Law 12-103 became effective on May 8, 1998.

**Legislative history of Law 12-210.** — Law 12-210, the “Child Support and Welfare Reform

Compliance Temporary Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-657. The Bill was adopted on first and second readings on July 7, 1998, and September 22, 1998, respectively. Signed by the Mayor on October 16, 1998, it was assigned Act No. 12-497 and transmitted to both Houses of Congress for its review. D.C. Law 12-210 became effective on April 13, 1999.

**Legislative history of Law 12-230.** — Law 12-230, the "Self-Sufficiency Promotion Temporary Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-557. The Bill was adopted on first and second readings on May 5, 1998, and July 30, 1998, respectively. Signed by the Mayor on August 18, 1998, it was

assigned Act No. 12-443 and transmitted to both Houses of Congress for its review. D.C. Law 12-230 became effective on April 20, 1999.

**Legislative history of Law 12-241.** — Law 12-241, the "Self-Sufficiency Promotion Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-558, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Signed by the Mayor on December 23, 1998, it was assigned Act No. 12-573 and transmitted to both Houses of Congress for its review. D.C. Law 12-241 became effective on April 20, 1999.

## § 16-902. Residence requirements.

**Cited in** L.T. v. J.C., 125 WLR 1309 (Super. Ct. 1997).

## § 16-904. Grounds for divorce, legal separation, and annulment.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 10(f), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in (b)(3).

### I. GENERAL CONSIDERATION.

**Legislative history of Law 12-81.** — Law 12-81, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill

No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

## § 16-909. Proof of child's relationship to mother and father.

**Temporary amendment of section.** — Section 5(b) of D.C. Law 12-103 amended (c) and added a new (c-1) to read as follows:

"(c) The parent-child relationship is conclusively established:

"(1) Upon a determination of the parentage of a child by:

"(A) The Superior Court of the District of Columbia under the provisions of subchapter II of Chapter 23 of this title or subsection (b) of this section;

"(B) Any other court of competent jurisdiction;

"(C) The IV-D agency of another state, in compliance with jurisdictional and procedural requirements of that state; or

"(D) Any entity of another state authorized to determine parentage, in compliance with jurisdictional and procedural requirements of that state;

"(2) By a voluntary acknowledgement of paternity pursuant to § 16-909.1(a)(1), unless either signatory rescinds the acknowledgement pursuant to § 16-909.1(a)(1).

"(3) By a voluntary acknowledgement of paternity in another state pursuant to the laws and procedures of that state, unless either signatory rescinds the acknowledgement pursuant to the laws and procedures of that state.

"(c-1) A parent-child relationship that has been established pursuant to subsection (b-1)(1) of this section may be challenged upon the same grounds and through the same procedures as are applicable to a final judgment of the Superior Court. A parent-child relationship that has been established pursuant to subsection (b-1)(2) of this section or section 16-909.1(a)(1) may be challenged in the Superior Court after the rescission period provided by § 16-909.1(a-1) through the same procedures



as are applicable to a final judgment of the Superior Court, but only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenging party. The legal responsibilities (including child support obligations) of any signatory arising from the acknowledgement of parentage may not be superseded during the challenge, except for good cause shown."

Section 16(b) of D.C. Law 12-103 provides that the act shall expire after 225 days of its having taken effect.

Section 5(c) of D.C. Law 12-210 amended (b-1)(1) and (c), and added (c-1) to read as follows:

"(b-1) A conclusive presumption of paternity shall be created:

"(1) Upon a result and an affidavit from a laboratory of a genetic test of a type generally acknowledged as reliable by accreditation bodies designated by the Secretary of the U.S. Department of Health and Human Services that is performed by a laboratory approved by such a body indicating a 99% probability that the putative father is the father of the child; or

\*\*\*\*\*

"(c) The parent-child relationship is conclusively established:

"(1) Upon a determination of the parentage of a child by the following:

"(A) The Superior Court of the District of Columbia under the provisions of subchapter II of Chapter 23 of this title or subsection (b) of this section;

"(B) Any other court of competent jurisdiction;

"(C) The IV-D agency of another state, in compliance with jurisdictional and procedural requirements of that state; or

"(D) Any entity of another state authorized to determine parentage, in compliance with jurisdictional and procedural requirements of that state;

"(2) By a voluntary acknowledgment of paternity pursuant to section 16-909.1(a)(1), unless either signatory rescinds the acknowledgment pursuant to section 16-909.1(a-1); or

"(3) By a voluntary acknowledgment of paternity in another state pursuant to the laws and procedures of that state, unless either signatory rescinds the acknowledgment pursuant to the laws and procedures of that state.

"(c-1) A parent-child relationship that has

been established pursuant to subsection (b-1)(1) of this section may be challenged upon the same grounds and through the same procedures as are applicable to a final judgment of the Superior Court. A parent-child relationship that has been established pursuant to subsection 16-909(b-1)(2) of this section or section 16-909.1(a)(1) may be challenged in the Superior Court after the rescission period provided by section 16-909.1(a-1) through the same procedures as are applicable to a final judgment of the Superior Court, but only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenging party. The legal responsibilities (including child support obligations) of any signatory arising from the acknowledgment of parentage may not be suspended during the challenge, except for good cause shown."

Section 15(b) of D.C. Law 12-210 provided that the act shall expire after 225 days of its having taken effect.

**Emergency act amendments.** — For temporary amendment of section, see § 5(c) of the Child Support and Welfare Compliance Emergency Amendment Act of 1997 (D.C. Act 12-222, December 23, 1997, 44 DCR 114), § 5(c) of the Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-309, March 20, 1998, 45 DCR 1923), § 5(c) of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110), § 5(c) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-503, October 27, 1998, 45 DCR 8495), and § 5(c) of the Child Support and Welfare Reform Compliance Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-600, January 20, 1999, 46 DCR 1239).

Section 16 of D.C. Act 12-309 provided for the application of the act.

Section 15 of D.C. Act 12-503 provides for the application of the act.

For temporary repeal of D.C. Law 12-103, see § 13 of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110).

**Legislative history of Law 12-103.** — See note to § 16-901.

**Legislative history of Law 12-210.** — See note to § 16-901.

## § 16-909.1. Establishment of paternity by voluntary acknowledgment and based on genetic test results.

**Temporary amendment of section.** — Section 5(d) of D.C. Law 12-103 amended (a)(1) and added a new (a-1) to read as follows:

"(a) Paternity may be established by:

"(1) A written statement of the father and mother signed under oath (which may include signature in the presence of a notary) that acknowledges paternity, provided that before



the parents sign the acknowledgment, both have been given written and oral notice of the alternatives to, legal consequences of, and the rights and responsibilities that arise from signing the acknowledgment. Oral notice may be given through videotape or audiotape. The acknowledgment shall include the full name, Social Security number, and date of birth of the mother, father, and child; address of the mother and father; birthplace of the child; an explanation of the legal consequences of signing the affidavit; a statement indicating that both parents understand their rights, responsibilities, and the alternatives and consequences of signing the affidavit; the place the affidavit was completed; and signature lines for the parents. Nothing in this paragraph shall affect the validity of a voluntary acknowledgment of paternity executed before the effective date of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1997, or preclude the submission of an acknowledgment of paternity that does not comply with the requirements of this paragraph as evidence of paternity in a judicial or administrative proceeding; or

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“(a-1) A signatory to a voluntary acknowledgment of paternity pursuant to subsection (a)(1) of this section may rescind the acknowledgment within the earlier of 60 days or the date of an administrative or judicial proceeding relating to the child in which the signatory is a party.”

Section 16(b) of D.C. Law 12-103 provides that the act shall expire after 225 days of its having taken effect.

Section 5(d) of D.C. Law 12-210 amended this section to read as follows:

“§ 16-909.1. Establishment of paternity by voluntary acknowledgment and based on genetic test results.

“(a) Paternity may be established by:

“(1) A written statement of the father and mother signed under oath (which may include signature in the presence of a notary) that acknowledges paternity, provided that before the parents sign the acknowledgment, both have been given written and oral notice of the alternatives to, legal consequences of and the rights and responsibilities that arise from signing the acknowledgment (Oral notice may be given through videotape or audiotape. The acknowledgment shall include the full name, the social security number, and date of birth of the mother, father, and child, an explanation of the legal consequences of the affidavit, a statement indicating that both parents understand their rights, responsibilities, and the alternatives and consequences of signing the affidavit, the place the affidavit was completed, and signature lines for the parents. Nothing in this paragraph shall affect the validity of a voluntary acknowledgment of paternity executed be-

fore December 23, 1997, or preclude the submission of an acknowledgment of paternity that does not comply with the requirements of this paragraph as evidence of paternity in a judicial or administrative proceeding.); or

“(2) A result and an affidavit from a laboratory of a genetic test of a type generally acknowledged as reliable by accreditation bodies designated by the Secretary of the U.S. Department of Health and Human Services that is performed by a laboratory approved by such a body, that affirms at least a 99% probability that the putative father is the father of the child.

“(a-1) A signatory to a voluntary acknowledgment of paternity pursuant to subsection (a)(1) of this section may rescind the acknowledgment within the earlier of 60 days or the date of an administrative or judicial proceeding relating to the child in which the signatory is a party.

“(b) An acknowledgment in accordance with subsection (a)(1) of this section, which has not been rescinded pursuant to subsection (a-1) of this section, or a genetic test and affidavit that meet the requirements of subsection (a)(2) of this section shall legally establish the parent-child relationship between the father and the child for all rights, privileges, duties, and obligations under the laws of the District of Columbia. The acknowledgment or genetic test and affidavit shall be admissible as evidence of paternity.

“(c) A public or private agency or institution that operates in the District of Columbia shall accept as adequate proof of paternity a birth certificate issued by the District of Columbia after the effective date of the District of Columbia Paternity Establishment Temporary Act of 1991 [June 18, 1991] or other evidence that the requirements of subsection (a)(1) or (a)(2) have occurred.

“(d) In the absence of an acknowledgment, or if the probability of paternity shown by a genetic test is less than 99%, paternity may be established as otherwise provided in this chapter.”

Section 15(b) of D.C. Law 12-210 provided that the act shall expire after 225 days of its having taken effect.

**Emergency act amendments.** — For temporary amendment of section 16-909.1, see § 5(d) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1997 (D.C. Act 12-222, December 23, 1997, 44 DCR 114), § 5(d) of the Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-309, March 20, 1998, 45 DCR 1923), § 5(d) of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110), § 5(d) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1998 (D.C. Act

12-503, October 27, 1998, 45 DCR 8495), and § 5(d) of the Child Support and Welfare Reform Compliance Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-600, January 20, 1999, 46 DCR 1239).

Section 16 of D.C. Act 12-309 provided for the application of the act.

For temporary repeal of D.C. Law 12-103, see

§ 13 of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110).

**Legislative history of Law 12-103.** — See note to § 16-901.

**Legislative history of Law 12-210.** — See note to § 16-901.

### **§ 16-909.3. Paternity acknowledgment program requirements for birthing hospitals.**

(a) For the purposes of this section, the term “birthing hospital” means a hospital that has an obstetric care unit or provides obstetric services, or a birthing center associated with a hospital.

(b)(1) Each public and private birthing hospital in the District shall operate a hospital-based program that, immediately before and after the birth of a child, provides to each unmarried woman who gives birth at the hospital and the alleged putative father, if present in the hospital, the following:

(A) Written materials concerning paternity establishment;

(B) Forms necessary to voluntarily acknowledge paternity;

(C) A written description of the rights and responsibilities of establishing paternity;

(D) The opportunity to speak, either by telephone or in person, with staff who are trained to clarify information and answer questions about paternity establishment; and

(E) The opportunity to voluntarily acknowledge paternity in the hospital.

(2) The Mayor shall provide to each birthing hospital the materials described in paragraph (1) (A) through (C) of this subsection in sufficient amounts to be distributed to all concerned parties under this subsection.

(c) Each public and private birthing hospital shall provide the following services:

(1) Afford the mother and alleged putative father, if present in the hospital, due process safeguards;

(2) Inform the mother and alleged putative father, if present in the hospital, that each is required to sign the voluntary acknowledgment of paternity form to effectuate the voluntary acknowledgment of paternity;

(3) Inform the mother and alleged putative father, if present in the hospital, that their signatures on the voluntary acknowledgment of paternity form must be authenticated by a notary or witness; and

(4) Provide for the services of a notary on the premises of the birthing hospital.

(d) The birthing hospital shall transmit each completed voluntary acknowledgment of paternity form to the Mayor within 14 days of completion. The Mayor shall promptly record identifying information from the form and permit the child support enforcement agency for the District timely access to the identifying information and any other documentation recorded from the form that the child enforcement agency needs to determine if a voluntary acknowledgment of paternity has been recorded or to seek a support order on the basis of the recorded voluntary acknowledgment of paternity.



(e) The Mayor shall provide to the staff of each birthing hospital training, guidance, and written instructions necessary to operate the paternity acknowledgment program required by this section.

(f) The Mayor shall assess the paternity acknowledgment program of each birthing hospital each year. (Feb. 27, 1998, D.C. Law 12-54, § 2, 44 DCR 6231.)

**Temporary addition of sections.** — Section 102(b) of D.C. Law 11-206 added the section.

Section 101 of D.C. Law 11-206 provided that Title I of the act may be cited as the “Paternity Acknowledgment Temporary Act of 1996”.

Section 401(b) of D.C. Law 11-206 provides that the act shall expire after 225 days of its having taken effect.

Section 5(e) of D.C. Law 12-103 added the section.

Section 16(b) of D.C. Law 12-103 provides that the act shall expire after 225 days of its having taken effect.

Section 5(b) of D.C. Law 12-103 added a § 16-909.4 to read as follows:

“§ 16-909.4. Voluntary paternity acknowledgment program for birth records agency.

“(a) The Registrar of Vital Records shall offer to any person seeking to file or amend a birth certificate that does not include a father’s name:

“(1) Written materials concerning paternity establishment;

“(2) Forms necessary to acknowledge paternity voluntarily;

“(3) A written and oral description of the alternatives to, the legal consequences of, and the rights and responsibilities that arise from, signing a voluntary acknowledgment of paternity. The oral description may be videotaped or audiotaped;

“(4) Written notice that a voluntary acknowledgment of paternity form is not effectuated unless the mother and putative father each sign it and a notary or witness authenticates their signatures;

“(5) The services of a notary on the premises;

“(6) The opportunity to speak, by telephone or in person, with staff of the IV-D agency or Registrar who are trained to clarify information and answer questions about paternity establishment; and

“(7) The opportunity to acknowledge paternity voluntarily at the birth records agency.

“(b) The Registrar of Vital Records shall establish procedures for the recording in the records of the Registrar, and for the transmittal to the Superior Court or the IV-D agency of completed voluntary acknowledgments of paternity, and of information contained in an acknowledgment that may be used in the establishment or enforcement of a child support order.”

Section 16(b) of D.C. Law 12-103 provides that the act shall expire after 225 days of its having taken effect.

Section 5(f) of D.C. Law 12-210 added §§ 16-909.4 and 16-909.5 to read as follows:

“§ 16-909.4. Voluntary paternity acknowledgment program for birth records agency.

“(a) The Registrar of Vital Records shall offer to any person seeking to file or amend a birth certificate that does not include a father’s name:

“(1) Written materials concerning paternity establishment;

“(2) Forms necessary to acknowledge paternity voluntarily that meet the federal requirements;

“(3) A written and oral description of the alternatives to, the legal consequences of, and the rights and responsibilities that arise from, signing a voluntary acknowledgment of paternity (the oral description may be videotaped or audiotaped);

“(4) Written notice that a voluntary acknowledgment of paternity form is not effectuated unless the mother and putative father each sign it and a notary or witness authenticates their signatures;

“(5) The services of a notary on the premises;

“(6) The opportunity to speak, by telephone or in person, with staff of the IV-D agency or Registrar who are trained to clarify information and answer questions about paternity establishment; an

“(7) The opportunity to acknowledge paternity voluntarily at the birth records agency.

“(b) The Registrar of Vital Records shall establish procedures for the recording in the records of the Registrar, and for the transmittal to the IV-D agency of completed voluntary acknowledgments of paternity, and of information contained in an acknowledgment that may be used in the establishment or enforcement of a support order.

“§ 16-909.5. Location of other voluntary paternity establishment services.

“The Mayor is authorized to establish voluntary paternity establishment services at entities other than hospitals, or the Vital Records Office, by publishing a notice of such location in the *D.C. Register*. The Mayor may only designate entities that meet the applicable federal requirements and comply with the same requirements that apply to birthing hospitals as set forth in section 16-909.3.”

Section 15(b) of D.C. Law 12-210 provided that the act shall expire after 225 days of its having taken effect.

**Temporary amendment of section.** — Section 5(e) of D.C. Law 12-210 amended this section to read as follows:



“§ 16-909.3. Paternity acknowledgment program for birthing hospitals.

“(a) For the purposes of this section, the term ‘birthing hospital’ means a hospital that has an obstetric care unit or provides obstetric services, or a birthing center.

“(b)(1) Each public and private birthing hospital in the District of Columbia shall operate a program that, immediately before and after the birth of a child, provides to each unmarried woman who gives birth at the hospital and the alleged putative father, if present in the hospital:

“(A) Written materials concerning paternity establishment;

“(B) Forms necessary to acknowledge paternity voluntarily that meet the federal requirements;

“(C) A written and oral description (the oral description may be videotaped or audiotaped) of the alternatives to, the legal consequences of, and the rights and responsibilities that arise from, signing a voluntary acknowledgment of paternity;

“(D) Written notice that a voluntary acknowledgment of paternity form is not effectuated unless the mother and putative father each sign the form, and a notary or witness authenticates the signatures;

“(E) The opportunity to speak, either by telephone or in person, with hospital or IV-D agency staff who are trained to clarify information and answer questions about paternity establishment;

“(F) Access to the services of a notary on the premises of the birthing hospital; and

“(G) The opportunity to acknowledge paternity voluntarily in the hospital.

“(2) The Mayor shall provide to each birthing hospital the materials described in paragraph (1)(A) through (D) of this subsection, in sufficient amounts to be distributed to each unmarried mother giving birth in the hospital and to each putative father present in the hospital.

“(c) The birthing hospital shall transmit each completed voluntary acknowledgment of paternity form to the Registrar of Vital Records within 14 days of completion. The Registrar shall promptly record identifying information from the form and permit the IV-D agency timely access to the identifying information and any other documentation recorded from the form that the IV-D agency needs to determine if a voluntary acknowledgment of paternity has been recorded and to seek a support order on the basis of the recorded voluntary acknowledgment of paternity.

“(d) The Mayor shall provide to the staff of each birthing hospital training, guidance, and written instructions necessary to operate the paternity acknowledgment program required by this section.

“(e) The Mayor shall assess the program of each birthing hospital each year.”

Section 15(b) of D.C. Law 12-210 provided

that the act shall expire after 225 days of its having taken effect.

**Emergency act amendments.** — For temporary addition of section, see § 2(b) of the Paternity Acknowledgment Congressional Review Emergency Act of 1996 (D.C. Act 11-423, October 28, 1996, 43 DCR 6136), § 2 (b) of the Paternity Acknowledgment Second Congressional Review Emergency Act of 1996 (D.C. Act 11-480, December 30, 1996, 44 DCR 212), § 2(b) of the Paternity Acknowledgment Congressional Review Emergency Act of 1997 (D.C. Act 12-20, March 3, 1997, 44 DCR 1765), § 2(b) of the Paternity Acknowledgment Legislative Review Emergency Amendment Act of 1997 (D.C. Act 12-181, October 30, 1997, 44 DCR 6953, repealed by D.C. Act 12-222, § 14(a)), and § 2(b) of the Paternity Acknowledgment Congressional Recess Emergency Amendment Act of 1998 (D.C. Act 12-253, January 29, 1998, 45 DCR 903).

For temporary designation of Title I of the act as the Paternity Acknowledgment Emergency Act of 1996, see § 101 of the Paternity Acknowledgment and Gas Station Advisory Board Re-establishment Emergency Act of 1996 (D.C. Act 11-356, August 8, 1996, 43 DCR 4561).

Section 3 of D.C. Act 11-423, D.C. Act 11-480, and D.C. Act 12-20 provides that the enactment “will ensure that the District government remains eligible for approximately \$13 million in federal funds used in the collection of child support payments from noncustodial parents for the care of children who reside in the District.”

For temporary addition of section, see § 5(e) of the Child Support Welfare and Reform Compliance Emergency Amendment Act of 1997 (D.C. Act 12-222, December 23, 1997, 44 DCR 114), § 5(e) of the Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-309, March 20, 1998, 45 DCR 1923), § 5(e) of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110), § 5(e) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-503, October 27, 1998, 45 DCR 8495), and § 5(e) of the Child Support and Welfare Reform Compliance Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-600, January 20, 1999, 46 DCR 1239).

For temporary addition of § 16-909.4, see § 5(f) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1997 (D.C. Act 12-222, December 23, 1997, 44 DCR 114) and § 5(f) of the Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-309, March 20, 1998, 45 DCR 1923).

Section 16 of D.C. Act 12-309 provides for the application of the act.

For temporary addition of §§ 16-909.4 and

16-909.5, see § 5(f) of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110), § 5(f) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-503, October 27, 1998, 45 DCR 8495), and § 5(f) of the Child Support and Welfare Reform Compliance Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-600, January 20, 1999, 46 DCR 1239).

Section 15 of D.C. Act 12-503 provides for the application of the act.

For temporary repeal of § 16-909.3, see § 14(b) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1997 (D.C. Act 12-222, December 23, 1997, 44 DCR 114).

For temporary repeal of D.C. Law 12-103, see § 13 of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110).

**Legislative history of Law 11-206.** — Law 11-206, the "Paternity Acknowledgment and

Gas Station Advisory Board Reestablishment Temporary Act of 1996," was introduced in Council and assigned Bill No. 11-748, which was retained by Council. The Bill was adopted on first and second readings on July 3, 1996, and July 17, 1996, respectively. Signed by the Mayor on August 5, 1996, it was assigned Act No. 11-378 and transmitted to both Houses of Congress for its review. D.C. Law 11-206 became effective on April 9, 1996.

**Legislative history of Law 12-54.** — Law 12-54, the "Paternity Acknowledgment Amendment Act of 1997," was introduced in Council and assigned Bill No. 12-255, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on July 1, 1997, and September 22, 1997, respectively. Signed by the Mayor on October 3, 1997, it was assigned Act No. 12-171 and transmitted to both Houses of Congress for its review. D.C. Law 12-54 became effective on February 27, 1998.

**Legislative history of Law 12-103.** — See note to § 16-901.

**Legislative history of Law 12-210.** — See note to § 16-901.

## § 16-910. Dissolution of property rights; jurisdiction of court.

### III. MARITAL PROPERTY.

**Distribution of marital home.** — The trial court erred in assigning the marital home solely to the wife without taking into account (1) the full extent of the wife's assets, and (2) the value of the home and the parties' full equity in it. *Lewis v. Lewis*, App. D.C., 708 A.2d 249 (1998).

**No presumption of equal distribution.** — The divorce law contains no presumption in favor of an equal distribution of property; instead, it requires the court to divide the marital property in a manner that is equitable, just, and reasonable, after considering all relevant factors including, but not limited to, those enumerated. *Burwell v. Burwell*, App. D.C., 700 A.2d 219 (1997).

**Pension rights are property subject to distribution.** — Pension rights, to the extent acquired during the marriage, are property subject to distribution. *Herron v. Johnson*, App. D.C., 714 A.2d 783 (1998).

**Pension rights must be distributed.** — In a divorce action to distribute marital property in a manner that is equitable, just and reasonable, the trial court must distribute pension rights even though one spouse has entirely dissipated the pension funds. *Herron v. Johnson*, App. D.C., 714 A.2d 783 (1998).

**Dissipation of marital property.** — Dissipation is the disposition of marital property by a spouse in a manner intended to circumvent the equitable distribution of the marital estate. *Herron v. Johnson*, App. D.C., 714 A.2d 783 (1998).

Dissipation may be shown by prima facie evidence, un rebutted, that the spouse used marital property for his or her own benefit and for a purpose unrelated to the marriage at a time when the marriage was undergoing an irreconcilable breakdown. *Herron v. Johnson*, App. D.C., 714 A.2d 783 (1998).

**Appellate review.** — The Court of Appeals will reverse divorce decrees ordering distribution of marital property where the inadequate findings on material issues precludes meaningful appellate review. *Burwell v. Burwell*, App. D.C., 700 A.2d 219 (1997).

### IV. SEPARATE PROPERTY.

**Wrongful death benefits.** — The proceeds from the settlement of actions arising out of the death of the wife's child by a prior union were her sole and separate property and not subject to equitable distribution between the husband and wife upon divorce. *Lewis v. Lewis*, App. D.C., 708 A.2d 249 (1998).



**§ 16-911. Alimony pendente lite; suit money; enforcement; custody of children.**

(a) During the pendency of an action for divorce, or an action by the husband or wife to declare the marriage null and void, where the nullity is denied by the other spouse, the court may:

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(5) determine who shall have the care and custody of a minor child or children pending the proceedings, without conclusive regard to the race, color, national origin, political affiliation, sex or sexual orientation, in and of itself, of a party according to procedures set forth in this section. The court may award joint or sole custody according to the best interest of the child. In determining the care and custody of a minor child, the best interest of the child shall be the primary consideration. Unless the court determines that it is not in the best interest of the child, the court may issue an order that provides for frequent and continuing contact between each parent and the minor child or children and for the sharing of responsibilities of child-rearing and encouraging the love, affection, and contact between the minor child or children and the parents regardless of marital status. There shall be a rebuttable presumption that joint custody is in the best interest of the child or children, except in instances where a judicial officer has found by a preponderance of the evidence that an intrafamily offense as defined in D.C. Code section 16-1001(5), an instance of child abuse as defined in section 102 of the Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Code § 6-2101), an instance of child neglect as defined in section 2 of the Child Abuse and Neglect Prevention Children's Trust Fund Act of 1993, effective October 5, 1993 (D.C. Law 10-56; D.C. Code § 6-2131), or where parental kidnapping as defined in D.C. Code section 16-1021 through section 16-1026 has occurred. There shall be a rebuttable presumption that joint custody is not in the best interest of the child or children if a judicial officer finds by a preponderance of the evidence that an intrafamily offense as defined in D.C. Code section 16-1001(5), an instance of child abuse as defined in section 102 of the Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Code § 6-2101), an instance of child neglect as defined in section 2 of the Child Abuse and Neglect Prevention Children's Trust Fund Act of 1993, effective October 5, 1993 (D.C. Law 10-56; D.C. Code § 6-2131), or where parental kidnapping as defined in D.C. Code section 16-1021 through section 16-1026 has occurred. To determine the best interest of the child, for the purpose of making a joint or sole custody determination, the court shall consider all relevant factors, including, but not limited to:

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(O) the impact on Temporary Assistance for Needy Families, Program on Work, Employment, and Responsibilities, and medical assistance;

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(Apr. 20, 1999, D.C. Law 12-241, § 10, 46 DCR 905.)



**Effect of amendments.**

D.C. Law 12-241 substituted "Temporary Assistance for Needy Families, Program on Work, Employment, and Responsibilities" for "Aid to Families with Dependent Children" in (a)(5)(O).

**Temporary amendment of section.** — Section 5(g) of D.C. Law 12-103 amended (a)(5)(O) to read as follows:

"(a) During the pendency of an action for divorce, or an action by the husband or wife to declare the marriage null and void, where the nullity is denied by the other spouse, the court may:

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"(5) determine who shall have the care and custody of a minor child or children pending the proceedings, without conclusive regard to the race, color, national origin, political affiliation, sex or sexual orientation, in and of itself, of a party according to procedures set forth in this section. The court may award joint or sole custody according to the best interest of the child. In determining the care and custody of a minor child, the best interest of the child shall be the primary consideration. Unless the court determines that it is not in the best interest of the child, the court may issue an order that provides for frequent and continuing contact between each parent and the minor child or children and for the sharing of responsibilities of child-rearing and encouraging the love, affection, and contact between the minor child or children and the parents regardless of marital status. There shall be a rebuttable presumption that joint custody is in the best interest of the child or children, except in instances where a judicial officer has found by a preponderance of the evidence that an intrafamily offense as defined in D.C. Code section 16-1001(5), an instance of child abuse as defined in section 102 of the Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Code § 6-2101), an instance of child neglect as defined in section 2 of the Child Abuse and Neglect Prevention Children's Trust Fund Act of 1993, effective October 5, 1993 (D.C. Law 10-56; D.C. Code § 6-2131), or where parental kidnapping as defined in D.C. Code section 16-1021 through section 16-1026 has occurred. There shall be a rebuttable presumption that joint custody is not in the best interest of the child or children if a judicial officer finds by a preponderance of the evidence that an intrafamily offense as defined in D.C. Code section 16-1001(5), an instance of child abuse as defined in section 102 of the Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Code § 6-2101), an instance of child neglect as defined in section 2 of the Child Abuse and Neglect Prevention Children's Trust Fund Act of 1993, effective October 5, 1993 (D.C. Law 10-

56; D.C. Code § 6-2131), or where parental kidnapping as defined in D.C. Code section 16-1021 through section 16-1026 has occurred. To determine the best interest of the child, for the purpose of making a joint or sole custody determination, the court shall consider all relevant factors, including, but not limited to:

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"(O) the impact on Temporary Assistance for Needy Families and medical assistance;"

Section 16(b) of D.C. Law 12-103 provides that the act shall expire after 225 days of its having taken effect.

Section 5(g) of D.C. Law 12-210 substituted "Temporary Assistance for Needy Families" for "Aid to Families with Dependent Children" in (a)(5)(O).

Section 15(b) of D.C. Law 12-210 provided that the act shall expire after 225 days of its having taken effect.

Section 10 of D.C. Law 12-230 substituted "Temporary Assistance for Needy Families, Program on Work, Employment, and Responsibilities" for "Aid to Families with Dependent Children" in (a)(5)(O).

Section 18(b) of D.C. Law 12-230 provides that the act shall expire after 225 days of its having taken effect.

**Emergency act amendments.** — For temporary amendment of section, see § 5(g) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1997 (D.C. Act 12-222, December 23, 1997, 44 DCR 114), § 5(g) of the Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-309, March 20, 1998, 45 DCR 1923), § 5(g) of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110), § 5(g) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-503, October 27, 1998, 45 DCR 8495), and § 5(g) of the Child Support and Welfare Reform Compliance Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-600, January 20, 1999, 46 DCR 1239).

Section 16 of D.C. Act 12-309 provided for the application of the act.

Section 15 of D.C. Act 12-503 provides for the application of the act.

For temporary amendment of section, see § 10 of the Self-Sufficiency Promotion Emergency Amendment Act of 1998 (D.C. Act 12-372, June 9, 1998, 45 DCR 4270), § 10 of the Self-Sufficiency Promotion Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-425, July 31, 1998, 45 DCR 5682), § 10 of the Self-Sufficiency Promotion Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-552, December 24, 1998, 46 DCR 521), § 10 of the Self-Sufficiency Promotion

Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-19, February 17, 1999, 46 DCR 2492).

Section 17 of D.C. Act 12-552 provides for the retroactive application of the act.

Section 18 of D.C. Act 13-19 provides for the retroactive application of the act.

For temporary repeal of D.C. Law 12-103, see § 13 of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110).

**Legislative history of Law 12-103.** — See note to § 16-901.

**Legislative history of Law 12-210.** — See note to § 16-901.

**Legislative history of Law 12-230.** — See note to § 16-901.

**Legislative history of Law 12-241.** — See note to § 16-901.

**Award of child support pendente lite.** — An award of child support pendente lite does

not constitute a sufficient change in the possession of property to enable the Court of Appeals to exercise its jurisdiction under § 11-721(a)(2)(C); a pendente lite support award does not alter, but rather maintains, the status quo regarding the possession of property. *Bowie v. Nicholson*, App. D.C., 705 A.2d 290 (1998).

Pendente lite support orders are not immediately appealable under the collateral order doctrine; they do not conclusively determine any disputed question of law, they do not resolve an issue separate from the merits of the case, and they are reviewable on appeal from a final judgment of divorce. *Bowie v. Nicholson*, App. D.C., 705 A.2d 290 (1998).

**Child support.** — A parent has a legal duty to provide support to his or her children if able to do so, and a court may enforce that duty by an appropriate order. *Bowie v. Nicholson*, App. D.C., 705 A.2d 290 (1998).

Cited in *Cox v. Cox*, 707 A.2d 1297 (D.C. 1998).

## § 16-914. Retention of jurisdiction as to alimony and custody of children.

(a)

\* \* \* \* \*

(3) In determining the care and custody of infant children, the best interest of the child shall be the primary consideration. To determine the best interest of the child, the court shall consider all relevant factors, including, but not limited to:

\* \* \* \* \*

(P) the impact on Temporary Assistance for Needy Families, Program on Work, Employment, and Responsibilities, and medical assistance; and

\* \* \* \* \*

(Apr. 20, 1999, D.C. Law 12-241, § 11, 46 DCR 905.)

### Effect of amendments.

D.C. Law 12-241 substituted “Temporary Assistance for Needy Families, Program on Work, Employment, and Responsibilities” for “Aid to Families with Dependent Children” in (a)(3)(P).

**Temporary amendment of section.** — Section 5(h) of D.C. Law 12-103 amended (a)(3)(P) to read as follows:

“(a)

\*\*\*\*\*

“(3) In determining the care and custody of infant children, the best interest of the child shall be the primary consideration. To determine the best interest of the child, the court

shall consider all relevant factors, including, but not limited to:

\*\*\*\*\*

“(P) the impact on Temporary Assistance for Needy Families and medical assistance;”

Section 16(b) of D.C. Law 12-103 provides that the act shall expire after 225 days of its having taken effect.

Section 5(h) of D.C. Law 12-210 substituted “Temporary Assistance for Needy Families” for “Aid to Families with Dependent Children” in (a)(3)(P).

Section 15(b) of D.C. Law 12-210 provided that the act shall expire after 225 days of its having taken effect.



Section 11 of D.C. Law 12-230 substituted "Temporary Assistance for Needy Families, Program on Work, Employment, and Responsibilities" for "Aid to Families with Dependent Children" in (a)(3)(P).

Section 18(b) of D.C. Law 12-230 provides that the act shall expire after 225 days of its having taken effect.

**Emergency act amendments.** — For temporary amendment of section, see § 5(h) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1997 (D.C. Act 12-222, December 23, 1997, 44 DCR 114), § 5(h) of the Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-309, March 20, 1998, 45 DCR 1923), § 5(h) of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110), § 5(h) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-503, October 27, 1998, 45 DCR 8495), and § 5(h) of the Child Support and Welfare Reform Compliance Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-600, January 20, 1999, 46 DCR 1239).

Section 16 of D.C. Act 12-309 provided for the application of the act.

Section 15 of D.C. Act 12-503 provides for the application of the act.

For temporary amendment of section, see

§ 11 of the Self-Sufficiency Promotion Emergency Amendment Act of 1998 (D.C. Act 12-372, June 9, 1998, 45 DCR 4270), § 11 of the Self-Sufficiency Promotion Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-425, July 31, 1998, 45 DCR 5682), § 11 of the Self-Sufficiency Promotion Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-552, December 24, 1998, 46 DCR 521), and § 11 of the Self-Sufficiency Promotion Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-19, February 17, 1999, 46 DCR 2492).

Section 17 of D.C. Act 12-552 provides for the application of the act.

Section 18 of D.C. Act 13-19 provides for the application of the act.

For temporary repeal of D.C. Law 12-103, see § 13 of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110).

**Legislative history of Law 12-103.** — See note to § 16-901.

**Legislative history of Law 12-210.** — See note to § 16-901.

**Legislative history of Law 12-230.** — See note to § 16-901.

**Legislative history of Law 12-241.** — See note to § 16-901.

**Cited in** *Cox v. Cox*, 707 A.2d 1297 (D.C. 1998).

## § 16-916. Maintenance of spouse and minor children; maintenance of former spouse; maintenance of minor children; enforcement.

**Temporary amendment of section.** — Section 5(i) of D.C. Law 12-103 amended (a) and (c) to read as follows:

"(a) Whenever a husband or wife shall fail or refuse to maintain his or her needy spouse, minor children, or both, although able to do so, or whenever any parent shall fail or refuse to maintain his or her children by a marriage since dissolved, although able to do so, the court, upon proper application and upon a showing of genuine need of a spouse, may decree, pendente lite and permanently, that such husband or wife shall pay reasonable sums periodically for the support of such needy spouse and of the children, or such children, as the case may be, that either or both parents shall pay for the unreimbursed medical expenses of the child, and that a parent shall obtain medical insurance for the child whenever that insurance is available at a reasonable cost, and the court may decree that he or she pay suit money, including counsel fees, pendente lite and permanently, to enable plaintiff to conduct the case.

\*\*\*\*\*

"(c) When a father or mother fails to maintain his or her minor child, the Court may decree that the father or mother pay reasonable sums periodically for the support and maintenance of the child, that either or both parents pay for the unreimbursed medical expenses of the child, that the parent obtain medical insurance for the child whenever that insurance is available at a reasonable cost, and that the father or mother pay Court costs, including counsel fees, to enable plaintiff to conduct the cases.

Section 16(b) of D.C. Law 12-103 provides that the act shall expire after 225 days of its having taken effect.

Section 5(i) of D.C. Law 12-210 amended (a) and (c) to read as follows:

"(a) Whenever a husband or wife shall fail or refuse to maintain his or her needy spouse, minor children, or both, although able to do so, or whenever any parent shall fail or refuse to maintain his or her children by a marriage since dissolved, although able to do so, the court, upon proper application and upon a



showing of genuine need of a spouse, may decree, pendente lite and permanently, that such husband or wife shall pay reasonable sums periodically for the support of such needy spouse and of the children, or such children, as the case may be, that either or both parents shall pay for the unreimbursed medical expenses of the child, and that a parent shall obtain medical insurance for the child whenever that insurance is available at a reasonable cost, and the court may decree that he or she pay suit money, including counsel fees, pendente lite and permanently, to enable plaintiff to conduct the case.

\*\*\*\*

“(c) When a father or mother fails to maintain his or her minor child, the Court may decree that the father or mother pay reasonable sums periodically for the support and maintenance of the child, that either or both parents shall pay for the unreimbursed medical expenses of the child, that the parent obtain medical insurance for the child whenever that insurance is available at a reasonable cost, and that the father or mother pay Court costs, including counsel fees, to enable plaintiff to conduct the cases.”

Section 15(b) of D.C. Law 12-210 provided that the act shall expire after 225 days of its having taken effect.

**Emergency act amendments.** — For temporary amendment of section, see § 5(i) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1997 (D.C. Act 12-222, December 23, 1997, 44 DCR 114), § 5(i) of the Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-309, March 20, 1998, 45 DCR 1923), § 5(i) of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110), § 5(i) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-503, October 27, 1998, 45 DCR 8495), and § 5(i) of the Child Support and Welfare Reform Compli-

ance Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-600, January 20, 1999, 46 DCR 1239).

Section 16 of D.C. Act 12-309 provided for the application of the act.

Section 15 of D.C. Act 12-503 provides for the application of the act.

For temporary repeal of D.C. Law 12-103, see § 13 of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110).

**Legislative history of Law 12-103.** — See note to § 16-901.

**Legislative history of Law 12-210.** — See note to § 16-901.

## I. GENERAL CONSIDERATION.

**Constitutionality.** — The D.C. Code § 30-401 requirement that a parent pay child support after a child's 18th birthday is not an unconstitutional application to a non-custodial parent because this section places an equal obligation on all parents; there is no impermissible distinction between custodial and non-custodial parents. *Monroe v. Monroe*, 125 WLR 1081 (Super. Ct. 1997).

**Cited in** *L.T. v. J.C.*, 125 WLR 1309 (Super. Ct. 1997); *Cox v. Cox*, 707 A.2d 1297 (D.C. 1998); *Lewis v. Lewis*, App. D.C., 708 A.2d 249 (1998).

## III. CHILD SUPPORT.

### Support obligation.

A parent has a legal duty to provide support to his or her children if able to do so, and a court may enforce that duty by an appropriate order. *Bowie v. Nicholson*, App. D.C., 705 A.2d 290 (1998).

## V. ENFORCEMENT.

**Jurisdiction of court.** — A court which has established initial jurisdiction over a question of child support does not lose authority to enforce the decree if both parents move to other jurisdictions. *Desai v. Fore*, App. D.C., 711 A.2d 822 (1998).

# § 16-916.1. Child Support Guideline.

\* \* \* \* \*

(b) The guideline shall be based on the following principles:

\* \* \* \* \*

(7) The guideline shall be applied consistently whether or not the custodial parent is a Temporary Assistance for Needy Families, or Program on Work, Employment, and Responsibilities recipient.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 10(g), 45 DCR 745; Apr. 20, 1999, D.C. Law 12-241, § 12, 46 DCR 905.)

**Effect of amendments.**

D.C. Law 12-81 validated a previously made technical correction in (o)(2).

D.C. Law 12-241 substituted "Temporary Assistance for Needy Families, or Program on Work, Employment, and Responsibilities" for "Aid to Families with Dependent Children" in (b)(7).

**Temporary amendment of section.**

Section 5(j) of D.C. Law 12-103 amended (b)(7), (i), and (o) to read as follows:

"(b) The guideline shall be based on the following principles:

\*\*\*\*\*

"(7) The guideline shall be applied consistently whether or not the custodial parent is a Temporary Assistance for Needy Families recipient.

\*\*\*\*\*

"(i) The payment of an uninsured extraordinary medical or dental expense incurred by a minor child who is the subject of a child support petition shall be treated on a case by case basis, if payment of such expenses has not been addressed in the support order or in an agreement between the parties. If the court determines that the medical or dental expense is necessary and is in the best interest of the child, the court may reduce the child support order of the noncustodial parent for a portion of the payment that the noncustodial parent makes toward the medical or dental expense or may increase the child support order to reimburse the custodial parent for payments made by the custodial parent.

\*\*\*\*\*

"(o) A child support order issued under this section or section 5 of the District of Columbia Child Support Enforcement Amendment Act of 1985, effective February 24, 1987 (D.C. Law 6-166; D.C. Code, 30-504), shall be subject to modification by application of the guideline subject to the following conditions or limitations:

\*\*\*\*\*

"(2) Every 3 years, in cases being enforced under title IV, part D of the Social Security Act, approved January 4, 1975 (88 Stat. 2351; 42 U.S.C. § 651 et seq.), the IV-D agency shall notify both the non-custodial and the custodial

parent of the right to a review, and, if appropriate, a modification of their child support order under the guideline. The IV-D agency and the Child Support Section of the Family Services Division of the Office of the Corporation Counsel shall establish a procedure for informing the non-custodial and custodial parent if a modification is warranted under the guideline. Upon the request of either parent or, if the obligee receives public assistance, upon the request of either parent or the IV-D agency, the Superior Court shall modify a child support order without requiring any showing of a change in circumstances, notwithstanding any other provision of law, if the order differs by 15% or more from the central guideline figure calculated by applying the guideline to the parties' current circumstances. Nothing in this paragraph shall be construed to limit the ability of a party to seek a modification of a child support order upon a showing of a material and substantial change in the needs of the child or the ability of the obligor to pay."

Section 16(b) of D.C. Law 12-103 provides that the act shall expire after 225 days of its having taken effect.

Section 5(j) of D.C. Law 12-210 amended (b)(7), (i), and (o)(2) to read as follows:

"(b) The guideline shall be based on the following principles:

\*\*\*\*\*

"(7) The guideline shall be applied consistently whether or not the custodial parent is a Temporary Assistance for Needy Families recipient.

\*\*\*\*\*

"(i) The payment of an uninsured extraordinary medical or dental expense incurred by a minor child who is the subject of a child support petition shall be treated on a case by case basis, if payment of such expenses has not been addressed in the support order or in an agreement between the parties. If the court determines that the medical or dental expense is necessary and is in the best interest of the child, the court may reduce the child support order of the noncustodial parent for a portion of the payment that the noncustodial parent makes toward the medical or dental expense or may increase the child support order to reimburse the custodial parent for payments made by the custodial parent.

\*\*\*\*\*

"(o) A child support order issued under this section or section 5 of the District of Columbia



Child Support Enforcement Amendment Act of 1985, effective February 24, 1987 (D.C. Law 6-166; D.C. Code, 30-504), shall be subject to modification by application of the guideline subject to the following conditions or limitations:

\*\*\*\*

“(2) Every 3 years, in cases being enforced under title IV, part D of the Social Security Act, approved January 4, 1975 (88 Stat. 2351; 42 U.S.C. § 651 et seq.), the IV-D agency shall notify both the non-custodial and the custodial parent of the right to a review, and, if appropriate, a modification of their support order under the guideline. The IV-D agency shall establish a procedure for informing the noncustodial and custodial parent if a modification is warranted under the guideline. Upon the request of either parent or, if the obligee receives public assistance, upon the request of either parent or the IV-D agency, the Superior Court shall modify a support order without requiring any showing of a change in circumstances, notwithstanding any other provision of law, if the order differs by 15% or more from the central guideline figure calculated by applying the guideline to the parties’ current circumstances. Nothing in this paragraph shall be construed to limit the ability of a party to seek a modification of a support order upon a showing of a material and substantial change in the needs of the child or the ability of the obligor to pay.”

Section 15(b) of D.C. Law 12-210 provided that the act shall expire after 225 days of its having taken effect.

Section 12 of D.C. Law 12-230 substituted “Temporary Assistance for Needy Families, or Program on Work, Employment, and Responsibilities” for “Aid to Families with Dependent Children (AFDC)” in (b)(7).

Section 18(b) of D.C. Law 12-230 provides that the act shall expire after 225 days of its having taken effect.

#### **Emergency act amendments.**

For temporary amendment of section, see § 5(j) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1997 (D.C. Act 12-222, December 23, 1997, 44 DCR 114), § 5(j) of the Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-309, March 20, 1998, 45 DCR 1923), § 5(j) of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998,

45 DCR 6110), § 5(j) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-503, October 27, 1998, 45 DCR 8495), and § 5(e) of the Child Support and Welfare Reform Compliance Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-600, January 20, 1999, 46 DCR 1239).

Section 16 of D.C. Act 12-309 provided for the application of the act.

Section 15 of D.C. Act 12-503 provides for the application of the act.

For temporary amendment of section, see § 12 of the Self-Sufficiency Promotion Emergency Amendment Act of 1998 (D.C. Act 12-372, June 9, 1998, 45 DCR 4270), § 12 of the Self-Sufficiency Promotion Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-425, July 31, 1998, 45 DCR 5682), § 12 of the Self-Sufficiency Promotion Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-552, December 24, 1998, 46 DCR 521), and § 12 of the Self-Sufficiency Promotion Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-19, February 17, 1999, 46 DCR 2492).

Section 17 of D.C. Act 12-552 provides for the retroactive application of the act.

Section 18 of D.C. Act 13-19 provides for the retroactive application of the act.

For temporary repeal of D.C. Law 12-103, see § 13 of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110).

**Legislative history of Law 12-81.** — Law 12-81, the “Technical Amendments Act of 1998,” was introduced in Council and assigned Bill No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

**Legislative history of Law 12-103.** — See note to § 16-901.

**Legislative history of Law 12-210.** — See note to § 16-901.

**Legislative history of Law 12-230.** — See note to § 16-901.

**Legislative history of Law 12-241.** — See note to § 16-901.

**Cited in** *Lewis v. Lewis*, App. D.C., 708 A.2d 249 (1998).

## **§ 16-916.2. Child Support Guideline Commission.**

**Section references.** — This section is referred to in § 1-633.7.



## § 16-920. Effective date of decree for annulment or absolute divorce.

**“Effective date” not the same as date judgment entered.** — The “effective date” under this section and the date judgment is entered cannot be the same date, and, in fact, they serve two distinct purposes: the former preserves the status quo ante pending appeal;

the latter — as the starting point for the clock under Domestic Relations Rule 60(b)(1) — preserves the finality of trial court judgments that are not appealed. *Cox v. Cox*, 707 A.2d 1297 (D.C. 1998).

## § 16-924. Expedited judicial hearing.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 10(h), 45 DCR 745.)

### Effect of amendments.

D.C. Law 12-81 validated a previously made technical correction in (a)(2).

**Temporary addition of section.** — Section 5(k) of D.C. Law 12-103 added a new § 16-925 to read as follows:

“§ 16-925. Privacy; protection for victims of domestic violence.

“(a) The Mayor shall promulgate rules and establish procedures to implement safeguards, applicable to all confidential information possessed by the IV-D agency or executive branch agencies in cooperative agreements with the IV-D agency, to protect the privacy rights of parties in IV-D agency proceedings. These safeguards shall include:

“(1) Prohibitions against unauthorized use or disclosure of information relating to paternity, support, or custody actions in IV-D agency proceedings;

“(2) Prohibitions against release of information concerning the whereabouts of one party or the child to another party, if a protection order has been entered (in the District or in another jurisdiction) to protect the party or the child whose whereabouts are being sought from the party seeking disclosure;

“(3) Prohibitions against release of information concerning the whereabouts of one party or the child to another party if the Mayor has reason to believe that the release of the information may result in physical or emotional harm to the party or the child whose whereabouts are being sought; and

“(4) Requirements to notify the Secretary of the U.S. Department of Health and Human Services when the Mayor has reasonable evidence of domestic violence or child abuse against a party or the child, and that the disclosure of information concerning the whereabouts of the party or the child could be harmful to the party or the child.

“(b) The Superior Court shall establish procedures to implement safeguards, applicable to all confidential information possessed by the Superior Court, to protect the privacy rights of parties in paternity or support proceedings. These safeguards shall include:

“(1) Prohibitions against unauthorized use or disclosure of information relating to paternity, support, or custody actions in Superior Court proceedings;

“(2) Prohibitions against release of information concerning the whereabouts of one party or the child to another party, if a protection order has been entered (in the District or in another jurisdiction) to protect the party or the child whose whereabouts are being sought from the party seeking disclosure;

“(3) Prohibitions against release of information concerning the whereabouts of one party or the child to another party if the Superior Court has reason to believe that the release of the information may result in physical or emotional harm to the party or the child whose whereabouts are being sought;

“(4) Requirements to notify the Secretary of the U.S. Department of Health and Human Services when the Superior Court has reasonable evidence of domestic violence or child abuse against a party or the child, and that the disclosure of information concerning the whereabouts of the party or the child could be harmful to the party or the child; and

“(5) In cases in which the Secretary of the U.S. Department of Health and Human Services has informed the Superior Court that it was notified that there is reasonable evidence of domestic violence or child abuse, requirements to determine whether disclosure of information concerning a party's or child's whereabouts to any other person would be harmful to a party or the child, and if so, to prohibit the disclosure.”

Section 16(b) of D.C. Law 12-103 provides that the act shall expire after 225 days of its having taken effect.

Section 5(k) of D.C. Law 12-210 added § 16-925 to read as follows:

“§ 16-925. Privacy protection for victims of domestic violence.

“(a) The Mayor shall promulgate rules and establish procedures to implement safeguards, applicable to all confidential information handled by the IV-D agency or executive branch

agencies in cooperative agreements with the IV-D agency, to protect the privacy rights of parties in IV-D agency proceedings. These safeguards shall include the following:

"(1) Prohibitions against the unauthorized use or disclosure of information relating to paternity, support, or custody actions in IV-D agency proceedings;

"(2) Prohibitions against the release of information concerning the whereabouts of one party or a child to another party, if a protection order has been entered (in the District or in another jurisdiction) to protect the party or the child whose whereabouts are being sought from the party seeking disclosure;

"(3) Prohibitions against release of information concerning the whereabouts of one party or a child to another party if the Mayor has reason to believe that the release of the information may result in physical or emotional harm to the party or the child whose whereabouts are being sought;

"(4) Requirements to notify the Secretary of the U.S. Department of Health and Human Services when the Mayor 1) has reasonable evidence of domestic violence or child abuse against a party or a child, or 2) when the disclosure of information concerning the whereabouts of the party or the child could be harmful to the party or the child; and

"(5) In cases where the Secretary of the U.S. Department of Health and Human Services has informed the IV-D agency that the Department has been notified that there is reasonable evidence of domestic violence or child abuse, requirements to determine whether disclosure of information concerning a party's or child's whereabouts to any other person would be harmful to a party or the child, and if so, to prohibit the disclosure.

"(b) The Superior Court shall establish procedures to implement safeguards, applicable to all confidential information possessed by the Superior Court, to protect the privacy rights of parties in paternity or support proceedings. These safeguards shall include:

"(1) Prohibitions against the unauthorized use or disclosure of information relating to paternity, support, or custody actions in Superior Court proceedings;

"(2) Prohibitions against the release of information concerning the whereabouts of one party or a child to another party, if a protection order has been entered (in the District or in another jurisdiction) to protect the party or the child whose whereabouts are being sought from the party seeking disclosure;

"(3) Prohibitions against the release of information concerning the whereabouts of one party or a child to another party if the Superior

Court has reason to believe that the release of information may result in physical or emotional harm to the party or the child whose whereabouts are being sought;

"(4) Requirements to notify the Secretary of the U. S. Department of Health and Human Services when the Superior Court 1) has reasonable evidence of domestic violence or child abuse against a party or a child, or 2) when the disclosure of information concerning the whereabouts of the party or the child could be harmful to the party or the child; and

"(5) In cases where the Secretary of the U.S. Department of Health and Human Services has informed the Superior Court that the Department has been notified that there is reasonable evidence of domestic violence or child abuse, requirements to determine whether disclosure of information concerning a party's or child's whereabouts to any other person would be harmful to a party or the child, and if so, to prohibit the disclosure."

Section 15(b) of D.C. Law 12-210 provided that the act shall expire after 225 days of its having taken effect.

**Emergency act amendments.** — For temporary addition of § 16-925, see § 5(k) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1997 (D.C. Act 12-222, December 23, 1997, 44 DCR 114), § 5(k) of the Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-309, March 20, 1998, 45 DCR 1923), § 5(k) of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110), § 5(k) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-503, October 27, 1998, 45 DCR 8495), and § 5(k) of the Child Support and Welfare Reform Compliance Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-600, January 20, 1999, 46 DCR 1239).

Section 16 of D.C. Act 12-309 provided for the application of the act.

Section 15 of D.C. Act 12-503 provides for the application of the act.

For temporary repeal of D.C. Law 12-103, see § 13 of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110).

**Legislative history of Law 12-81.** — See note to § 16-916.1.

**Legislative history of Law 12-103.** — See note to § 16-901.

**Legislative history of Law 12-210.** — See note to § 16-901.



## CHAPTER 10. PROCEEDINGS REGARDING INTRAFAMILY OFFENSES.

*Subchapter I. Intrafamily Proceedings Generally.*

Sec.

16-1001. Definitions.

16-1002. Complaint of criminal conduct; referrals to Family Division.

Sec.

16-1005. Hearing; evidence; protection order.

*Subchapter II. Parental Kidnapping.*

16-1021. Definitions.

*Subchapter I. Intrafamily Proceedings Generally.*

## § 16-1001. Definitions.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 10(i), 45 DCR 745.)

**Effect of amendments.**

D.C. Law 12-81 validated a previously made technical correction in the introductory language.

**Legislative history of Law 12-81.** — Law 12-81, the “Technical Amendments Act of 1998,” was introduced in Council and assigned Bill No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the

Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

**“Ex-boyfriend.”** — The term “ex-boyfriend” falls within the definition of people with whom the complaining witness has had a “romantic relationship” under this section. *Hayes v. United States*, App. D.C., 707 A.2d 59 (1998).

**Cited in** *Mabry v. Demery*, App. D.C., 707 A.2d 49 (1998).

## § 16-1002. Complaint of criminal conduct; referrals to Family Division.

(a) If, upon the complaint of any person of criminal conduct by another or the arrest of a person charged with criminal conduct, it appears to the United States Attorney for the District of Columbia (hereafter in this subchapter referred to as the “United States attorney”) that the conduct involves an intrafamily offense, he shall notify the Director of Social Services. The Director of Social Services may investigate the matter and make such recommendations to the United States attorney as the Director deems appropriate.

\* \* \* \* \*

(c) The institution of criminal charges by the United States attorney shall be in addition to, and shall not affect the rights of the complainant to seek any other relief under this subchapter. Testimony of the respondent in any civil proceedings under this subchapter and the fruits of that testimony shall be inadmissible as evidence in a criminal trial except in a prosecution for perjury or false statement. (July 29, 1970, 84 Stat. 546, Pub. L. 91-358, title I, § 131(a); 1973 Ed., § 16-1002; Sept. 14, 1982, D.C. Law 4-144, § 3, 29 DCR 3131; Mar. 24, 1998, D.C. Law 12-81, § 10(j), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 substituted “subchapter” for “chapter” in (a) and (c).

**Legislative history of Law 12-81.** — See note to § 16-1001.

**Court not obligated to order response to notification.** — A trial court is not obligated to order the Director of Social Services to respond to a notification given under this section. *Hayes v. United States*, App. D.C., 707 A.2d 59 (1998).



**Failure to notify Director of Social Services.**

The ultimate control over the handling of an intra-family offense is vested in the United States Attorney; thus, only in an extreme case

might dismissal be an appropriate judicial response to a failure to notify the Director of Social Services. *Hayes v. United States*, App. D.C., 707 A.2d 59 (1998).

**§ 16-1003. Petition for civil protection.**

**Cited in** *In re T.K.*, App. D.C., 708 A.2d 1012 (1998).

**§ 16-1004. Petition; notice; temporary order.**

**Cited in** *In re T.K.*, App. D.C., 708 A.2d 1012 (1998).

**§ 16-1005. Hearing; evidence; protection order.**

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 10(k), 45 DCR 745.)

**Effect of amendments.**

D.C. Law 12-81 validated a previously made technical correction in (f).

**Legislative history of Law 12-81.** — See note to § 16-1001.

**Proceeding charging violation of civil protection order is proceeding for criminal contempt.** — A proceeding charging a person with disobeying a Civil Protection Or-

der, and which subjected him to a sentence of incarceration as punishment for the offense, was a proceeding for criminal contempt requiring proof of each element of the offense beyond a reasonable doubt. *Mabry v. Demery*, App. D.C., 707 A.2d 49 (1998).

**Cited in** *Burwell v. Burwell*, App. D.C., 700 A.2d 219 (1997).

***Subchapter II. Parental Kidnapping.*****§ 16-1021. Definitions.**

\* \* \* \* \*

(4) "Relative" means a parent, other ancestor, brother, sister, uncle, or aunt, or one who has been lawful custodian at some prior time. (May 23, 1986, D.C. Law 6-115, § 2, 33 DCR 2424; May 10, 1989, D.C. Law 7-231, § 25(b), 36 DCR 492; Mar. 24, 1998, D.C. Law 12-81, § 10(l), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in (4).

**Legislative history of Law 12-81.** — See note to § 16-1001.

**CHAPTER 11. EJECTMENT AND OTHER REAL PROPERTY ACTIONS.*****Subchapter I. Ejectment.***

Sec.

16-1109. Recovery of mesne profits and damages; separate count.

Sec.

16-1112. Expiration of title pending suit; damages.

16-1116. Improvements; notice; good faith; directions to jury; measure of damages.

*Subchapter I. Ejectment.*

**§ 16-1109. Recovery of mesne profits and damages; separate count.**

\* \* \* \* \*

(b) If the jury find for the plaintiff, they may, at the same time, find and assess the mesne profits, or the value of the use and occupation and the amount of damages, specified by subsection (a) of this section. Except in the case provided for by § 16-1116, there shall be rendered, besides a judgment for the recovery of the property, a judgment against the defendant for the amount so found by the jury. (Dec. 23, 1963, 77 Stat. 565, Pub. L. 88-241, § 1; 1973 Ed., § 16-1109; Mar. 24, 1998, D.C. Law 12-81, § 10(m), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81, in (b), substituted “mesne” for “mense.”

**Legislative history of Law 12-81.** — Law 12-81, the “Technical Amendments Act of 1998,” was introduced in Council and assigned Bill No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first

and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

**§ 16-1112. Expiration of title pending suit; damages.**

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 10(n), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in the section heading.

**Legislative history of Law 12-81.** — See note to § 16-1109.

**§ 16-1116. Improvements; notice; good faith; directions to jury; measure of damages.**

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 10(o), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in (2).

**Legislative history of Law 12-81.** — See note to § 16-1109.

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**CHAPTER 13. EMINENT DOMAIN.**

*Subchapter II. Real Property for District of Columbia.*

Sec.  
16-1321. Abandonment of proceedings; liability.

*Subchapter III. Excess Property for Development of Seat of Government.*

Sec.  
16-1332. Sale of excess property; restrictions

Sec.	on use; fair market value; disposition of moneys.	Sec.	declaration of taking; judgment for deficiency.
	<i>Subchapter IV. Real Property for United States.</i>	16-1360.	Trial; evidence; measure of compensation.
16-1354.	Distribution of money deposited on		

*Subchapter II. Real Property for District of Columbia.*

**§ 16-1311. Condemnation proceedings by District of Columbia.**

**Section references.** — This section is referred to in § 1-2295.19.

**§ 16-1314. Declaration of taking; contents; deposit; transfer of title; determination; interest.**

**Section references.** — This section is referred to in §§ 1-2295.19, 16-1315 and 16-1316.

**§ 16-1315. Distribution of money deposited on declaration of taking; judgment for deficiency or overpayment; execution.**

**Section references.** — This section is referred to in § 1-2295.19.

**§ 16-1316. Time for surrender of possession under declaration of taking; adjustment of charges.**

**Section references.** — This section is referred to in § 1-2295.19.

**§ 16-1321. Abandonment of proceedings; liability.**

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 10(p), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction.

**Legislative history of Law 12-81.** — Law 12-81, the “Technical Amendments Act of 1998,” was introduced in Council and assigned Bill No. 12-408, which was referred to the Commit-

tee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.



*Subchapter III. Excess Property for Development of Seat of Government.*

**§ 16-1332. Sale of excess property; restrictions on use; fair market value; disposition of moneys.**

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 10(q), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in (a).

**Legislative history of Law 12-81.** — See note to § 16-1321.

*Subchapter IV. Real Property for United States.*

**§ 16-1354. Distribution of money deposited on declaration of taking; judgment for deficiency.**

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 10(r), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction.

**Cited** in District of Columbia Redevelopment Land Agency v. Dowdey, App. D.C., 618 A.2d 153 (1992).

**Legislative history of Law 12-81.** — See note to § 16-1321.

**§ 16-1360. Trial; evidence; measure of compensation.**

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 10(s), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction.

**Legislative history of Law 12-81.** — See note to § 16-1321.

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CHAPTER 15. FORCIBLE ENTRY AND DETAINER.

**§ 16-1501. Definition; summons.**

**Cited** in Lennon v. United States Theatre Corp., 920 F.2d 996 (D.C. Cir. 1990); Mullin v. N

Street Follies Ltd. Partnership, App. D.C., 712 A.2d 487 (1998).

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CHAPTER 19. HABEAS CORPUS.

Sec.  
16-1908. Right of other persons to writ.

## § 16-1901. Petition; issuance of writ.

### **Federal courts not divested of jurisdiction to hear District habeas corpus claims.**

— Because Congress did not explicitly remove federal jurisdiction over those 28 U.S.C. § 2441 actions that do not attack the petitioner's conviction or sentence, that jurisdiction necessarily remains in effect. *Blair-Bey v. Quick*, 151 F.3d 1036 (D.C. Cir. 1998).

### **Writ not subject to filing fee provision of Prison Litigation Reform Act.**

— Habeas corpus proceedings are not "civil actions" for purposes of the Prison Litigation Reform Act filing-fee provision requiring prisoners to pay filing fees for civil actions. *Blair-Bey v. Quick*, 151 F.3d 1036 (D.C. Cir. 1998).

## § 16-1905. Right to copy of commitment; forfeiture.

**Purpose.** — The purpose of this section necessarily is to assure that the detainee is informed promptly of the basis of the detention. In *re Khamvongsa*, App. D.C., 697 A.2d 19 (1997).

**Time permitted for moving prisoner.** — This section does not impose forfeiture for fail-

ure to move the prisoner within certain time frames; while delays in the transfer of an offender should not be protracted, a reasonable time is permitted to execute court orders or transfers. In *re Khamvongsa*, App. D.C., 697 A.2d 19 (1997).

## § 16-1908. Right of other persons to writ.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 10(t), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction.

**Legislative history of Law 12-81.** — Law 12-81, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill No. 12-408, which was referred to the Commit-

tee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

## CHAPTER 23. FAMILY DIVISION PROCEEDINGS.

### *Subchapter I. Proceedings Regarding Delinquency, Neglect, or Need of Supervision.*

Sec.

- 16-2301. Definitions.
- 16-2302. Transfer of criminal matters to Family Division.
- 16-2305. Petition; contents; amendment.
- 16-2305.1. Findings.
- 16-2305.2. Preliminary probation conferences; adjustment process.
- 16-2309. Taking into custody.
- 16-2315. Physical and mental examinations.
- 16-2322. Limitation of time on dispositional orders.
- 16-2331. Juvenile case records; confidentiality; inspection and disclosure.
- 16-2335. Sealing of records.

Sec.

- 16-2337. Additional powers of the Director of Social Services.

### *Subchapter II. Parentage Proceedings.*

- 16-2341. Representation.
- 16-2345. New birth record upon marriage or determination of natural parents.

### *Subchapter III. Proceedings Regarding the Termination of Parental Rights of Certain Neglected Children.*

- 16-2353. Grounds for termination of parent and child relationship.
- 16-2354. Motions.
- 16-2361. Effect of termination decree.
- 16-2362. Decrees.
- 16-2363. Confidentiality of records.



*Subchapter I. Proceedings Regarding Delinquency, Neglect, or  
Need of Supervision.*

## § 16-2301. Definitions.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 10(u), 45 DCR 745.)

### I. IN GENERAL.

**Section references.** — This section is referred to in §§ 2-1352, 3-203.1, 11-721, 11-1101, 16-2304, 16-2315, 16-2316, 16-2352, 16-5003, and 16-5004.

**Effect of amendments.**

D.C. Law 12-81 validated a previously made technical correction in (11).

**Legislative history of Law 12-81.** — Law 12-81, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

**Cited in Doe ex rel. Fein v. District of Columbia,** 93 F.3d 861 (D.C. Cir. 1996); *In re F.N.B.*, App. D.C., 706 A.2d 28 (1998); *In re D.R.*, App. D.C., 718 A.2d 149 (1998).

### II. JURISDICTION IN CRIMINAL CASES.

**Retention of jurisdiction under paragraph (3)(A).** — Once a juvenile has been prosecuted in the Criminal Division as an adult under paragraph (3)(A), the Criminal Division retains jurisdiction over that juvenile until final disposition of all pending charges. *Partlow v. United States*, App. D.C., 673 A.2d 642 (1996).

**Termination of prosecution.** — Congress, in § 16-2307(h), made "termination of the prosecution" (provided there has been no intervening charged offense) the event triggering restoration of Family Division jurisdiction. Since paragraph (3)(B) of this section and § 16-2307(h) were enacted at the same time and are plainly in pari materia, the latter can inform the court's understanding of the former. *Partlow v. United States*, App. D.C., 673 A.2d 642 (1996).

### IV. CHILD NEGLECT.

**Choking.** — Even if the trial court had not credited a child's testimony regarding the sex-

ual aspects of the conduct toward her by her mother's live-in male companion, the fact that he choked her alone would be sufficient for a finding of neglect under paragraph (9)(A) of this section. *In re S.L.E.*, App. D.C., 677 A.2d 514 (1996).

**Sexual abuse.**

There was ample evidence in the record to support a finding of abuse within the meaning of paragraph (9)(A) of this section where the trial judge expressly credited a child's testimony that her mother's live-in male companion told her to take all of her clothes off, told her to touch his private parts, pulled her down and choked her, and threatened that he would kill her and her mother if she told her mother what had happened. *In re S.L.E.*, App. D.C., 677 A.2d 514 (1996).

**Lack of moral fault.** — Lack of moral fault is not a defense to claim of child neglect. *In re E.H.*, App. D.C., 718 A.2d 162 (1998).

**Removal of child justified.** — Where a single mother suffered from a severe delusional disorder and her child had serious developmental delays, the court enforced neglect statute without unwarranted intrusion upon the mother's parental prerogatives when it removed the child from the mother but allowed continued unsupervised visitation. *In re E.H.*, App. D.C., 718 A.2d 162 (1998).

### V. PROCEDURAL AND APPELLATE ISSUES.

**Failure to instruct jury that defendant's age was factor in determining culpability was harmless error.** — In a prosecution for second degree murder, the trial court's failure to instruct the jury that the accused's age is a factor for consideration in determining culpability for involuntary manslaughter was harmless error where the issue was not central to the case; the theory of the defense was not that the accused could not appreciate the risk of danger because of his age but that he took every precaution to assure that the weapon was unloaded and failed because of a defect in the weapon. *White v. United States*, App. D.C., 692 A.2d 1365 (1997).

## § 16-2302. Transfer of criminal matters to Family Division.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 10(v), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated previously made technical corrections in (b) and (c).

**Legislative history of Law 12-81.** — See note to § 16-2301.

## § 16-2305. Petition; contents; amendment.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 10(x), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in (a).

**Legislative history of Law 12-81.** — See note to § 16-2301.

### § 16-2305.1. Findings.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 10(y), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction to the Code section designation.

**Legislative history of Law 12-81.** — See note to § 16-2301.

### § 16-2305.2. Preliminary probation conferences; adjustment process.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 10(z), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction to the Code section designation.

**Legislative history of Law 12-81.** — See note to § 16-2301.

## § 16-2309. Taking into custody.

(a) A child may be taken into custody —

\* \* \* \* \*

(6) by the Chief of the Child Protective Services Division of the Department of Human Services or his or her designee, upon written notification by the chief executive officer of a hospital located in the District of Columbia, that the child has resided in the hospital for at least 10 calendar days following the birth of the child, despite a medical determination that the child is ready for discharge from the hospital, and the parent, guardian or custodian of the child, as established by the hospital admission records, has not taken any action or made any effort to maintain a parental, guardianship, or custodial relationship or contact with the child;

(7) by a law enforcement officer when the officer has reasonable grounds to believe that the child, who is not in school on a day when school is in session, is of compulsory school age as required by section 1(a) of An Act To provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes, approved February 4, 1925 (43 Stat. 806; D.C. Code § 31-402); or

(8) by the Director of Social Services, pursuant to section 16-2337.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 10(aa), 45 DCR 745; Apr. 20, 1999, D.C. Law 12-258, § 2(a), 46 DCR 1314.)

**Effect of amendments.**

D.C. Law 12-81 validated previously made technical corrections in (a)(4) and (6).

D.C. Law 12-258 added (a)(8) and made related changes.

**Legislative history of Law 12-81.** — See note to § 16-2301.

**Legislative history of Law 12-258.** — Law 12-258, the “Home and Community Juvenile

Probation Supervision Act of 1998,” was introduced in Council and assigned Bill No. 12-596. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-610 and transmitted to both Houses of Congress for its review. D.C. Law 12-258 became effective April 20, 1999.

## § 16-2310. Criteria for detaining children.

Cited in *In re J.E.H.*, App. D.C., 689 A.2d 528 (1996).

## § 16-2315. Physical and mental examinations.

\* \* \* \* \*

(c)(1) If as a result of mental examination the Division determines that a child alleged to be delinquent is incompetent to participate in proceedings under the petition by reason of mental illness or at least moderate mental retardation as defined in section 6-1902(2), it shall, except as provided in subsection (2), suspend further proceedings and the Corporation Counsel shall initiate commitment proceedings pursuant to chapter 5 or 11 of title 21.

\* \* \* \* \*

(3) If, as a result of mental examination, the Division determines that a child alleged to be in need of supervision is incompetent to participate in proceedings under the petition by reason of mental illness or at least moderate mental retardation as defined in section 6-1902(2), it shall suspend further proceedings. If proceedings are suspended, the Corporation Counsel may initiate commitment proceedings pursuant to chapter 5 or 11 of title 21.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 10(bb), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 substituted “section 6-1902(2)” for “section 6-1902(b)” in (c)(1) and (3).

**Legislative history of Law 12-81.** — See note to § 16-2301.



## § 16-2320. Disposition of child who is neglected, delinquent, or in need of supervision.

**Section references.** — This section is referred to in §§ 6-2125, 16-2323, 16-2327, 16-5002, and 32-1044.

**Evidence sufficient to show ten-day notice required by subsection (g).** — Where petitioner received an undated letter informing her of agency's intent to remove children from her foster home effective March 1 and informing her of meeting scheduled February 10, and petitioner filed a request for hearing on February 17, evidence was sufficient to show that petitioner received more than ten days notice of the intended removal of children as required by subsection (g) of this section. *Minnis v. District of Columbia Dep't of Human Servs.*, App. D.C., 712 A.2d 1030 (1998).

**Standing of out-of-District petitioner.** — Petitioner who resided in Maryland, and who was therefore not subject to the Youth Residential Facilities Licensure Act, had a right to challenge the removal of particular children from her foster home but was not entitled to a

hearing to challenge therefor by the Department of Human Services to place any other children in her home. *Minnis v. District of Columbia Dep't of Human Servs.*, App. D.C., 712 A.2d 1030 (1998).

**"Best interest of child" standard inapplicable to ruling on plea withdrawal motion.** — A ruling on a plea withdrawal motion under Rule 32(e), Rules Governing Juvenile Proceedings, is not a disposition within the meaning of subsection (c) of this section, and thus application of "the best interest of the child standard," applicable in juvenile detention and neglect proceedings, did not apply. In re J.E.H., App. D.C., 689 A.2d 528 (1996).

**"Least restrictive environment" standard.** — There is no statutory mandate requiring "the least restrictive environment" standard be applied in child neglect cases. In re D.R., App. D.C., 718 A.2d 149 (1998).

**Cited in** *Hammon v. United States*, App. D.C., 695 A.2d 97 (1997).

## § 16-2322. Limitation of time on dispositional orders.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 10(cc), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in (e).

**Legislative history of Law 12-81.** — See note to § 16-2301.

## § 16-2323. Review of dispositional orders.

**Cited in** *Covington v. United States*, App. D.C., 698 A.2d 1033 (1997).

## § 16-2331. Juvenile case records; confidentiality; inspection and disclosure.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 10(dd), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in (b)(3).

**Cited in** *Hammon v. United States*, App. D.C., 695 A.2d 97 (1997).

**Legislative history of Law 12-81.** — See note to § 16-2301.

## § 16-2335. Sealing of records.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 10(ee), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated previously made technical corrections in (a) and in (b)(4).

**Legislative history of Law 12-81.** — See note to § 16-2301.

## § 16-2337. Additional powers of the Director of Social Services.

In addition to the powers and duties prescribed in section 11-1722, the Director of Social Services shall have power to take into custody and place in detention or shelter care, in accordance with this subchapter, children who are under his supervision as delinquent, in need of supervision, or neglected, children on probation and under the Director's supervision, when the Director has reasonable cause to believe they have violated one or more conditions of their probation, or children who have run away from agencies or institutions to which they were committed under this subchapter. (July 29, 1970, 84 Stat. 543, Pub. L. 91-358, title I, § 121(a); 1973 Ed., § 16-2337; Sept. 23, 1977, D.C. Law 2-22, title IV, § 408(a), 24 DCR 3341; Apr. 20, 1999, D.C. Law 12-258, § 2(b), 46 DCR 1314.)

**Effect of amendments.** — D.C. Law 12-258 inserted "children on probation and under the Director's supervision, when the Director has reasonable cause to believe they have violated

one or more conditions of their probation."

**Legislative history of Law 12-258.** — See note to § 16-2309.

## *Subchapter II. Parentage Proceedings.*

## § 16-2341. Representation.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 10(ff), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in (a).

**Legislative history of Law 12-81.** — See note to § 16-2301.

## § 16-2342. Time of bringing complaint.

**Temporary amendment of section.** — Section 5(m) of D.C. Law 12-103 amended this section to read as follows:

"Proceedings over which the Division has jurisdiction under D.C. Code, sec. 11-1101(3) and (11) to establish parentage and provide for the support of a child may be instituted after four months of pregnancy or at anytime until the child's twenty-first birthday. This section shall apply, as of August 16, 1984, to the establishment of paternity of a child for whom paternity has not been established or for whom a paternity action was brought but dismissed because a statute of limitations of less than 21 years was then in effect in the jurisdiction in which the action was brought."

Section 16(b) of D.C. Law 12-103 provides that the act shall expire after 225 days of its having taken effect.

Section 5(m) of D.C. Law 12-210 amended this section to read as follows:

"§ 16-2342. Who may bring a complaint; time.

"(a) Proceedings over which the Division has jurisdiction under D.C. Code, sec. 11-1101(3) and (11) to establish parentage and provide for the support of a child may be instituted after four months of pregnancy or at anytime until the child's twenty-first birthday.

"(b) Proceedings over which the Division has jurisdiction under D.C. Code, sec. 11-1101(3) and (11) to establish parentage and provide for the support of a child may be instituted after four months of pregnancy or at anytime until the child's twenty-first birthday. This section shall apply, as of August 16, 1984, to the establishment of paternity of a child for whom paternity has not been established or for whom a



paternity action was brought but dismissed because a statute of limitations of less than 21 years was then in effect in the jurisdiction in which the action was brought."

Section 15(b) of D.C. Law 12-210 provided that the act shall expire after 225 days of its having taken effect.

**Emergency act amendments.** — For the temporary amendment of section, see § 5(m) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1997 (D.C. Act 12-222, December 23, 1997, 44 DCR 114), § 5(m) of the Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-309, March 20, 1998, 45 DCR 1923), § 5(m) of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110), § 5(m) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-503, October 27, 1998, 45 DCR 8495), and § 5(m) of the Child Support and Welfare Reform Compliance Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-600, January 20, 1999, 46 DCR 1239).

Section 16 of D.C. Act 12-309 provided for the application of the act.

Section 15 of D.C. Act 12-503 provides for the application of the act.

For temporary repeal of D.C. Law 12-103, see § 13 of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110).

**Legislative history of Law 12-103.** — Law 12-103, the "Child Support and Welfare Reform Compliance Temporary Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-365. The Bill was adopted on first and second readings on December 4, 1997, and January 6, 1998, respectively. Signed by the Mayor on January 30, 1998, it was assigned Act No. 12-279 and transmitted to both Houses of Congress for its review. D.C. Law 12-103 became effective on May 8, 1998.

**Legislative history of Law 12-210.** — Law 12-210, the "Child Support and Welfare Reform Compliance Temporary Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-657. The Bill was adopted on first and second readings on July 7, 1998, and September 22, 1998, respectively. Signed by the Mayor on October 16, 1998, it was assigned Act No. 12-497 and transmitted to both Houses of Congress for its review. D.C. Law 12-210 became effective on April 13, 1999.

## § 16-2342.1. Voluntary acknowledgement of paternity.

**Temporary amendment of section.** — Section 5(o) of D.C. Law 12-210 amended the section to read as follows:

"(a) The voluntary acknowledgment of paternity pursuant to section 16-909.1(a)(1) shall:

"(1) Create a conclusive presumption of paternity, which shall be admissible as evidence of paternity; and

"(2) Be recognized as a basis for seeking a child support obligation without requiring any further proceeding to establish paternity.

"(b) Judicial or administrative proceedings are not required or permitted to ratify an unchallenged acknowledgment of paternity pursuant to section 16-909.1(a)(1).

"(c) The IV-D agency is authorized to obtain voluntary acknowledgments of paternity in a manner that complies with the same requirements that apply to birthing hospitals as set forth in section 16-909.3.

"(d) An acknowledgment shall be admissible

in any judicial proceeding to determine parentage."

Section 15(b) of D.C. Law 12-210 provided that the act shall expire after 225 days of its having taken effect.

**Emergency act amendments.** — For temporary amendment of section, see § 5(o) of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110), § 5(o) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-503, October 27, 1998, 45 DCR 8495), § 5(o) of the Child Support and Welfare Reform Compliance Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-600, January 20, 1999, 46 DCR 1239).

Section 15 of D.C. Act 12-503 provides for the application of the act.

## § 16-2343. Tests to establish parentage.

**Temporary amendment of section.** — Section 5(n) of D.C. Law 12-103 amended (a), (b)(2), and (c)(1), and added a new (a-1) to read as follows:

"(a) When the Division has jurisdiction of actions or proceedings under section 11-1101, the court, on its own motion, may require, or, on the motion of a party, shall require, the child

and all other parties to submit to medical or genetic tests, unless:

"(1) A party has established or is awaiting determination of a claim of good cause for failure to cooperate with paternity establishment pursuant to section 3-217.9;

"(2) A legal finding of paternity has been made by a court or administrative entity of



competent jurisdiction and has not been overturned on appeal, unless a party has made a showing pursuant to Superior Court Domestic Relations Rule 60(b) or section 16-909(c-1) (or the applicable rule of another jurisdiction, if the finding was made in another state) that supports setting aside the judgment, and genetic or medical testing would aid in resolving whether the judgment should be set aside;

“(3) The parties have signed a voluntary acknowledgment of paternity pursuant to section 16-909.1(a) or the law and procedures of another state, after the effective date of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1997 and have not made a legally-effective rescission of the acknowledgment; or

“(4) The child’s mother and putative father are or have been married and the child was born during the marriage, and no showing has been made pursuant to section 16-909(b) to overcome the rebuttable presumption of paternity.

“(a-1)(1) The IV-D agency shall require the child and all other parties to submit to medical or genetic tests, subject to exemptions for good cause pursuant to section 3-217.9, if:

“(A) A party submits a sworn statement alleging paternity and setting forth facts establishing a reasonable possibility of the requisite sexual contact between the parties, or denying paternity and setting forth facts establishing a reasonable possibility of the nonexistence of sexual contact between the parties; or

“(B) A party contests an original test result and seeks additional testing, upon request and advance payment by the contestant.

“(2) In all other cases, the IV-D agency may require the child and all other parties to submit to medical or genetic tests when paternity is contested, subject to exemptions for good cause pursuant to section 3-217.9.

“(b)

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“(2) The examiners may be appointed by the court, the IV-D agency, or chosen by consent of the parties.

“(c)(1) Except as provided pursuant to subsection (a-1)(1)(B) of this section, the costs of any medical or genetic tests ordered by the IV-D agency shall be paid by the IV-D agency, subject to recoupment from the putative father if paternity is established. The costs of any medical or genetic tests not ordered by the IV-D agency, and the costs of any expert witness appointed by the court shall be paid by the parties.”

Section 16(b) of D.C. Law 12-103 provides that the act shall expire after 225 days of its having taken effect.

Section 5(n) of D.C. Law 12-210 amended (a), (b)(2), and (c)(1), and added (a-1) to read as follows:

“(a) When the Division has jurisdiction of actions or proceedings under section 11-1101, the court, on its own motion, may require, or, on the motion of a party, shall require, the child and all other parties to submit to medical or genetic tests, unless:

“(1) A party has established or is awaiting determination of a claim of good cause for failure to cooperate with paternity establishment pursuant to section 3-217.9;

“(2) A legal finding of paternity has been made by a court or administrative entity of competent jurisdiction and has not been overturned on appeal, unless a party has made a showing pursuant to Superior Court Domestic Relations Rule 60(b) or section 16-909(c-1) (or the applicable rule of another jurisdiction, if the finding was made in another state) that supports setting aside the judgment, and genetic or medical testing would aid in resolving whether the judgment should be set aside;

“(3) The parties have signed a voluntary acknowledgment of paternity pursuant to section 16-909.1(a) or the law and procedures of another state, after December 23, 1997, and have not made a legally-effective rescission of the acknowledgment; or

“(4) The child’s mother and putative father are or have been married and the child was born during the marriage, and no showing has been made pursuant to section 16-909(b) to overcome the rebuttable presumption of paternity.

“(a-1)(1) The IV-D agency shall require the child and all other parties to submit to medical or genetic tests, subject to exemptions for good cause pursuant to section 3-217.9, if

“(A) A party submits a sworn statement alleging paternity and setting forth facts establishing a reasonable possibility of the requisite sexual contact between the parties; or

“(B) A party contests an original test result and seeks additional testing, upon request and advance payment by the contestant.

“(2) In all other cases, the IV-D agency may require the child and all other parties to submit to medical or genetic tests when paternity is contested, subject to exemptions for good cause pursuant to section 3-217.9.

\*\*\*\*

“(b)

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“(2) The examiners may be appointed by the court, the IV-D agency or chosen by consent of the parties.

“(c)(1) Except as provided pursuant to subsection (a-1)(1)(B) of this section, the costs of any medical or genetic tests ordered by the IV-D agency shall be paid by the IV-D agency, subject to recoupment from the putative father if paternity is established. The costs of any medical or genetic tests not ordered by the IV-D agency, and the costs of any expert witness

appointed by the court shall be paid by the parties."

Section 15(b) of D.C. Law 12-210 provided that the act shall expire after 225 days of its having taken effect.

**Emergency act amendments.** — For temporary amendment of section, see § 5(n) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1997 (D.C. Act 12-222, December 23, 1997, 44 DCR 114), § 5(n) of the Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-309, March 20, 1998, 45 DCR 1923), § 5(n) of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110), § 5(n) of the Child Support and Welfare Reform Compliance Legislative Review Emer-

gency Amendment Act of 1998 (D.C. Act 12-503, October 27, 1998, 45 DCR 8495), and § 5(n) of the Child Support and Welfare Reform Compliance Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-600, January 20, 1999, 46 DCR 1239).

Section 16 of D.C. Act 12-309 provided for the application of the act.

Section 15 of D.C. Act 12-503 provides for the application of the act.

For temporary repeal of D.C. Law 12-103, see § 13 of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110).

**Legislative history of Law 12-103.** — See note to § 16-2342.

**Legislative history of Law 12-210.** — See note to § 16-2342.

## § 16-2343.1. Admissibility of tests.

**Temporary amendment of section.** — Section 5(p) of D.C. Law 12-210 amended (e) and added (f) to read as follows:

"(e) A conclusive presumption of paternity shall be created upon the result and an affidavit, from a laboratory of a genetic test of a type generally acknowledged as reliable by accreditation bodies designated by the Secretary of the U.S. Department of Health and Human Services and that is performed by a laboratory approved by such a body, that indicates a 99% probability that the putative father is the father of the child and the Division shall enter a judgment finding the parentage of the child.

"(f) Bills for pregnancy, childbirth, and genetic testing are admissible as evidence without third party foundation testimony and shall constitute prima facie evidence of the amounts incurred for such services or for testing on behalf of the child."

Section 15(b) of D.C. Law 12-210 provided that the act shall expire after 225 days of its having taken effect.

**Emergency act amendments.** — For temporary amendment of section, see § 5(p) of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110), § 5(p) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-503, October 27, 1998, 45 DCR 8495), § 5(p) of the Child Support and Welfare Reform Compliance Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-600, January 20, 1999, 46 DCR 1239).

Section 15 of D.C. Act 12-503 provides for the application of the act.

**Legislative history of Law 12-210.** — See note to § 16-2342.

## § 16-2343.2. Sanctions.

**Cited** in District of Columbia ex rel. W.J.D. v. E. McB., App. D.C., 557 A.2d 941 (1989).

## § 16-2343.3. Default order.

**Temporary amendment of section.** — Section 5(o) of D.C. Law 12-103 amended this section to read as follows:

"If a putative father fails to appear at a hearing in any case in which paternity is at issue, a default order shall be entered upon a showing that the putative father was served with notice of the action by any method permitted pursuant to section 30-506(b), and that the putative father received actual notice of the hearing which he failed to attend. An ex parte hearing shall not be required before the entry of a default order."

Section 16(b) of D.C. Law 12-103 provides that the act shall expire after 225 days of its having taken effect.

Section 5(q) of D.C. Law 12-210 amended this section to read as follows:

"If a putative father fails to appear at a hearing in any case in which paternity is at issue, a default order shall be entered upon a showing that 1) the putative father was served with notice of the action by any method permitted pursuant to section 30-506(b), and 2) that the putative father received actual notice of the first, or any other hearing, where paternity is at



issue which he failed to attend. An ex parte hearing shall not be required before the entry of a default order."

Section 15(b) of D.C. Law 12-210 provided that the act shall expire after 225 days of its having taken effect.

**Temporary addition of section.** — Section 5(r) of D.C. Law 12-210 added § 16-2343.4 to read as follows:

"§ 16-2343.4. No right to jury trial.

"The parties to an action to establish paternity are not entitled to a jury trial."

Section 15(b) of D.C. Law 12-210 provided that the act shall expire after 225 days of its having taken effect.

**Emergency act amendments.** — For temporary amendment of section, see § 5(o) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1997 (D.C. Act 12-222, December 23, 1997, 44 DCR 114), and § 5(o) of the Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-309, March 20, 1998, 45 DCR 1923).

Section 16 of D.C. Act 12-309 provided for the application of the act.

For temporary amendment of section, see § 5(q) of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110), § 5(q) of the Child Support and Welfare Reform Compliance Legislative Review

Emergency Amendment Act of 1998 (D.C. Act 12-503, October 27, 1998, 45 DCR 8495), § 5(q) of the Child Support and Welfare Reform Compliance Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-600, January 20, 1999, 46 DCR 1239).

Section 15 of D.C. Act 12-503 provides for the application of the act.

For temporary addition of § 16-2343.4, see § 5(r) of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110), § 5(r) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-503, October 27, 1998, 45 DCR 8495), and § 5(r) of the Child Support and Welfare Reform Compliance Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-600, January 20, 1999, 46 DCR 1239).

Section 15 of D.C. Act 12-503 provides for the application of the act.

For temporary repeal of D.C. Law 12-103, see § 13 of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110).

**Legislative history of Law 12-103.** — See note to § 16-2342.

**Legislative history of Law 12-210.** — See note to § 16-2342.

## § 16-2345. New birth record upon marriage or determination of natural parents.

When a certified copy of a marriage certificate is submitted to the Registrar, establishing that the previously unwed parents of a child born out of wedlock have intermarried subsequent to the birth of the child, and the parentage of the child has been judicially determined or acknowledged by each of the parents, or when the parenthood of a child born out of wedlock has been established by judicial process or by acknowledgement by the person whose parenthood is thus determined, or when an agreement and affidavit that meet the requirements of section 16-909.1(a)(2) are submitted to the Registrar, a new certificate of birth bearing the original date of birth and the names of both parents shall be issued and substituted for the certificate of birth then on file. The new birth certificate shall nowhere on its face show that the parentage has been established by judicial process or by acknowledgement. The original certificate of birth and all papers pertaining to the issuance of the new certificate shall be placed under seal and opened for inspection only upon order of the Family Division. (Dec. 23, 1963, 77 Stat. 592, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 544, Pub. L. 91-358, title I, § 121(a); 1973 Ed., § 16-2345; Oct. 1, 1976, D.C. Law 1-87, § 20(d), 23 DCR 2544; Apr. 7, 1977, D.C. Law 1-107, title I, § 112, 23 DCR 8737; Oct. 8, 1981, D.C. Law 4-34, § 29(g), 28 DCR 3271; June 18, 1991, D.C. Law 9-5, § 2(e), 38 DCR 2717; Aug. 17, 1991, D.C. Law 9-39, § 2(e), 38 DCR 4970; Apr. 9, 1997, D.C. Law 11-255, § 18(i), 44 DCR 1271; Mar. 24, 1998, D.C. Law 12-81, § 10(gg), 45 DCR 745; Apr. 20, 1999, D.C. Law 12-264, § 57(b)(1), 46 DCR 2118.)



**Effect of amendments.**

D.C. Law 12-81 substituted "acknowledgement" for "acknowledgment" at the end of the second sentence.

D.C. Law 12-264 validated a previously made technical correction.

**Temporary amendment of section.**

Section 5(s) of D.C. Law 12-210 amended this section to read as follows:

"(a) When a certified copy of a marriage certificate is submitted to the Registrar, establishing that the previously unwed parents of a child born out of wedlock have intermarried subsequent to the birth of the child, and the parentage of the child has been judicially determined or acknowledged by each of the parents, or when the parenthood of a child born out of wedlock has been established by judicial process or by acknowledgement by the person whose parenthood is thus determined, or when an agreement and affidavit that meet the requirements of section 16-909.1(a)(2) are submitted to the Registrar, a new certificate of birth bearing the original date of birth and the names of both parents shall be issued and substituted for the certificate of birth then on file. The new birth certificate shall nowhere on its face show that the parentage has been established by judicial process or by acknowledgement. The original certificate of birth and all papers pertaining to the issuance of the new certificate shall be placed under seal and opened for inspection only upon order of the Family Division.

"(b) Voluntary acknowledgments and adjudications of paternity by administrative pro-

cesses that meet federal requirements and are obtained in accordance with sections 16-909.3 through 16-909.5 and 16-2342.1(c), shall be filed with the Registrar of Vital Records."

Section 15(b) of D.C. Law 12-210 provided that the act shall expire after 225 days of its having taken effect.

**Emergency act amendments.** — For temporary amendment of section, see § 5(v) of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110), § 5(v) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-503, October 27, 1998, 45 DCR 8495), and § 5(v) of the Child Support and Welfare Reform Compliance Second Congressional Review Emergency Amendment Act of 1998 (D.C. 12-600, January 20, 1999, 46 DCR 1239).

Section 15 of D.C. Act 12-503 provides for the application of the act.

**Legislative history of Law 12-81.** — See note to § 16-2301.

**Legislative history of Law 12-210.** — See note to § 16-2342.

**Legislative history of Law 12-264.** — Law 12-264, the "Technical Amendments Acts of 1998," was introduced in Council and assigned Bill No. 12-804. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Signed by the Mayor on January 7, 1999, it was assigned Act No. 12-626 and transmitted to both Houses of Congress for its review. D.C. Law 12-264 became effective on April 20, 1999.

## § 16-2348. Parentage records; confidentiality; inspection and disclosure.

**Temporary amendment of section.**

Section 5(p) of D.C. Law 12-103 amended (a) to read as follows:

"(a) Except on order of the Family Division, no records in a case over which the Division has jurisdiction under section 11-1101(11) shall be open to inspection by anyone other than the plaintiff, respondent, their attorneys of record, the IV-D agency, or authorized professional staff of the Superior Court. Any inspection shall be subject to the safeguards provided by section 16-925. The Family Division, upon proper showing, may authorize the furnishing of certified copies of the records or portions thereof to the respondent, the other parent, or custodian of the child, a party in interest, or their duly authorized attorneys. Certified copies of the records or portions thereof may be furnished, upon request, to the IV-D agency and Corporation Counsel for use as evidence in nonsupport proceedings and to the Registrar as provided by section 16-2346(a)."

Section 16(b) of D.C. Law 12-103 provides

that the act shall expire after 225 days of its having taken effect.

Section 5(t) of D.C. Law 12-210 amended (a) to read as follows:

"(a) Except on order of the Family Division, no records in a case over which the Division has jurisdiction under section 11-1101(11) shall be open to inspection by anyone other than the plaintiff, respondent, their attorneys of record, the IV-D agency, or authorized professional staff of the Superior Court. Any inspection shall be subject to the safeguards provided by section 16-925. The Family Division, upon proper showing, may authorize the furnishing of certified copies of the records or portions thereof to the respondent, the other parent, or custodian of the child, a party in interest, or their duly authorized attorneys. Certified copies of the records or portions thereof may be furnished, upon request, to the IV-D agency and the Corporation Counsel for use as evidence in nonsupport proceedings and to the Registrar as provided by section 16-2346(a)."

Section 15(b) of D.C. Law 12-210 provided

that the act shall expire after 225 days of its having taken effect.

**Temporary addition of section.** — Section 5(q) of D.C. Law 12-103 added a new § 16-2349 to read as follows:

“§ 16-2349. Inclusion of Social Security numbers in paternity records.

“(a) The Social Security number of the mother, father, and child who are parties to a paternity determination or acknowledgment shall be included in the Superior Court and IV-D agency records relating to the determination or acknowledgment.”

Section 16(b) of D.C. Law 12-103 provides that the act shall expire after 225 days of its having taken effect.

Section 5(r) of D.C. Law 12-103 added a new § 16-2349.1 to read as follows:

“§ 16-2349.1 Child support pendente lite.

“Upon motion of a party in a paternity or support action or proceeding, the Superior Court shall issue an order of child support pending a determination of parentage if there is clear and convincing evidence of paternity. Evidence of paternity may include a genetic test result that does not create a conclusive presumption of paternity pursuant to section 16-909(b-1)(1).”

Section 16(b) of D.C. Law 12-103 provides that the act shall expire after 225 days of its having taken effect.

Section 5(u) of D.C. Law 12-210 added § 16-2349 to read as follows:

“§ 16-2349. Inclusion of Social Security numbers in paternity records.

“The Social Security number of the mother, father, and child who are parties to a paternity determination or acknowledgment shall be included in the Superior Court and IV-D agency records relating to the determination or acknowledgment.”

Section 15(b) of D.C. Law 12-210 provided that the act shall expire after 225 days of its having taken effect.

Section 5(v) of D.C. Law 12-210 added § 16-2349.1 to read as follows:

“§ 16-2349.1. Child support pendente lite.

“Upon motion of a party in a paternity or support action or proceeding, the Superior Court shall issue an order of child support pending a determination of parentage if there is clear and convincing evidence of paternity. Evidence of paternity may include a genetic test result that does not create a conclusive presumption of paternity pursuant to section 16-909(b-1)(1).”

Section 15(b) of D.C. Law 12-210 provided that the act shall expire after 225 days of its having taken effect.

**Emergency act amendments.** — For temporary amendment of section, see § 5(p) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1997 (D.C. Act

12-222, December 23, 1997, 44 DCR 114), and § 5(p) of the Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-309, March 20, 1998, 45 DCR 1923).

Section 16 of D.C. Act 12-309 provided for the application of the act.

For temporary addition of § 16-2349, see § 5(q) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1997 (D.C. Act 12-222, December 23, 1997, 44 DCR 114).

For temporary addition of § 16-2349.1, see § 5(r) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 1997 (D.C. Act 12-222, December 23, 1997, 44 DCR 114).

For temporary addition of §§ 16-2349 and 16-2349.1, see § 5(q) and (r) of the Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-309, March 20, 1998, 45 DCR 1923).

Section 16 of D.C. Act 12-309 provided for the application of the act.

For temporary amendment of section, see § 5(s) of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110), § 5(s) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-503, October 27, 1998, 45 DCR 8495), and § 5(s) of the Child Support and Welfare Reform Compliance Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-600, January 20, 1999, 46 DCR 1239).

Section 15 of D.C. Act 12-503 provides for the application of the act.

For temporary addition of §§ 16-2349 and 16-2349.1, see § 5(t) and (u) of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110), § 5(t) and (u) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-503, October 27, 1998, 45 DCR 8495), and § 5(t) and (u) of the Child Support and Welfare Reform Compliance Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-600, January 20, 1999, 46 DCR 1239).

Section 15 of D.C. Act 12-503 provides for the application of the act.

For temporary repeal of D.C. Law 12-103, see § 13 of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110).

**Legislative history of Law 12-103.** — See note to § 16-2342.

**Legislative history of Law 12-210.** — See note to § 16-2342.



*Subchapter III. Proceedings Regarding the Termination of  
Parental Rights of Certain Neglected Children.*

**§ 16-2353. Grounds for termination of parent and child relationship.**

\* \* \* \* \*

(b) In determining whether it is in the child's best interests that the parent and child relationship be terminated, a judge shall consider each of the following factors:

\* \* \* \* \*

(3A) the child was left by his or her parent, guardian, or custodian in a hospital located in the District of Columbia for at least 10 calendar days following the birth of the child, despite a medical determination that the child was ready for discharge from the hospital, and the parent, guardian, or custodian of the child has not taken any action or made any effort to maintain a parental, guardianship, or custodial relationship or contact with the child;

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 10(hh), 45 DCR 745; Apr. 20, 1999, D.C. Law 12-264, § 57(b)(2), 46 DCR 2118.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in (b)(3A).

D.C. Law 12-264 validated a previously made technical correction in (b)(3A).

**Legislative history of Law 12-81.** — See note to § 16-2301.

**Legislative history of Law 12-264.** — See note to § 16-2345.

**Natural parents have vital interest in choosing child's custodian.** — In proceedings to terminate parental rights, unless deemed unfit or ineligible to do so, the natural parents have a vital interest in choosing the

child's custodian, which can be overcome only by a showing, by clear and convincing evidence, that the custodial arrangement is clearly contrary to the child's best interest. In re F.N.B., App. D.C., 706 A.2d 28 (1998).

**Court's discretion in applying statutory factors.**

The trial court has wide latitude in applying the criteria in subsection (b) of this section to determine whether the best interests of the child, as shown by clear and convincing evidence, call for termination of parental rights. In re F.N.B., App. D.C., 706 A.2d 28 (1998).

**§ 16-2354. Motions.**

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 10(ii), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in the introductory paragraph of (c).

**Legislative history of Law 12-81.** — See note to § 16-2301.

**§ 16-2359. Adjudicatory hearing.**

**Evidence insufficient to support termination** — Where the testimony in the record contained only a single reference to the identity of the father, the record did not establish the

required clear and convincing evidence to support the termination of the putative father's parental rights. In re C.V., App. D.C., 719 A.2d 1246 (1998).



§ 16-2361. Effect of termination decree.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 10(jj), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in (b).

**Cited in** In re F.N.B., App. D.C., 706 A.2d 28 (1998).

**Legislative history of Law 12-81.** — See note to § 16-2301.

§ 16-2362. Decrees.

\* \* \* \* \*

(b) Notwithstanding the provisions of § 16-2330, all orders terminating the parent and child relationship entered pursuant to this subchapter shall not be final and effective until the time for noting an appeal has expired and, if a notice of appeal has been entered, the order shall not become effective until the date of the final disposition of the appeal. (1973 Ed., § 16-2362; Sept. 23, 1977, D.C. Law 2-22, title IV, § 410, 24 DCR 3341; Mar. 24, 1998, D.C. Law 12-81, § 10(kk), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81, in (b), substituted “§ 16-2330” for “D.C. Code, section 16-2329 as renumbered by the Preven-

tion of Child Abuse and Neglect Act of 1977.”

**Legislative history of Law 12-81.** — See note to § 16-2301.

§ 16-2363. Confidentiality of records.

The provisions of §§ 16-2332 and 16-2333 shall apply to all juvenile case records and juvenile social records as defined therein which are created pursuant to the proceedings under this subchapter. (1973 Ed., § 16-2363; Sept. 23, 1977, D.C. Law 2-22, title IV, § 410, 24 DCR 3341; Mar. 24, 1998, D.C. Law 12-81, § 10(ll), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 substituted “§§ 16-2332 and 16-2333” for “sections 16-2331 and 16-2332 of this chapter, as renumbered by the Prevention of Child Abuse

and Neglect Act of 1977.”

**Legislative history of Law 12-81.** — See note to § 16-2301.

CHAPTER 27. NEGLIGENCE CAUSING DEATH.

§ 16-2701. Liability; damages; prior recovery as precluding action.

I. IN GENERAL.

**Right created.**

In accord with second paragraph in bound volume. Lewis v. Lewis, App. D.C., 708 A.2d 249 (1998).

**Cited in** District of Columbia v. Perez, App. D.C., 694 A.2d 882 (1997); Phillips v. District of Columbia, App. D.C., 714 A.2d 768 (1998); Flemmings v. District of Columbia, App. D.C., 719 A.2d 963 (1998).

§ 16-2702. Party plaintiff; statute of limitations.

**Fraudulent concealment of information tolls limitations period.** Statute may be tolled only on a showing of fraudulent concealment of the existence of a cause of action. *Flemmings v. District of Columbia*, App. D.C., 719 A.2d 963 (1998).

§ 16-2703. Distribution of damages.

**Cited in** *Lewis v. Lewis*, App. D.C., 708 A.2d 249 (1998).

CHAPTER 29. PARTITION AND ASSIGNMENT OF DOWER.

*Subchapter II. Assignment of Dower; Parties to Partition Proceeding; Sale of Property Discharged from Dower or Spouse's Intestate Share.*

Sec.  
16-2921. Appointment of commissioners; cases of partition.

*Subchapter II. Assignment of Dower; Parties to Partition Proceeding; Sale of Property Discharged from Dower or Spouse's Intestate Share.*

§ 16-2921. Appointment of commissioners; cases of partition.

When real property is held by a person or persons, by descent or purchase, in the whole of which a widow or widower is entitled to dower, either the widow or widower of a person entitled to the property or an undivided share therein may apply to the Superior Court of the District of Columbia to have the dower therein assigned. Thereupon, the court shall appoint three commissioners to lay off and assign the dower, if practicable. The report of the commissioners is subject to ratification by the court. In all cases of partition between two or more joint tenants or tenants in common of real property, in the whole of which a widow or widower is entitled to dower, the dower shall be laid off and assigned, in like manner, before the partition is decreed. When an estate of which a woman or man is dowable is entire, and the dower can not be set off therefrom by metes and bounds, it may be assigned by the court as of a third part of the net rents, issues, and profits thereof. (Dec. 23, 1963, 77 Stat. 597, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 561, Pub. L. 91-358, title I, § 145(k)(1); 1973 Ed., § 16-2921; Mar. 24, 1998, D.C. Law 12-81, § 10(mm), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81, in the fourth sentence, substituted “whole of which” for “whole or which.”

**Legislative history of Law 12-81.** — Law 12-81, the “Technical Amendments Act of 1998,” was introduced in Council and assigned Bill No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

## CHAPTER 31. PROBATE COURT PROCEEDINGS.

Sec. 16-3106. Issues to be made up in plenary proceeding; jury; compelling payment of costs.

### § 16-3106. Issues to be made up in plenary proceeding; jury; compelling payment of costs.

In a plenary proceeding provided for by section 16-3105, the Probate Court shall give judgment, or decree upon the bill an answer, or upon bill, answer, depositions, or finding of the jury. In all cases of contest, the court may award costs to the party deemed entitled thereto, and may compel payment by exercising its contempt power, or by attachment and sequestration of the property as provided by section 16-3104. (Dec. 23, 1963, 77 Stat. 600, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 561, Pub. L. 91-358, title I, § 145(l)(2); 1973 Ed., § 16-3106; Mar. 24, 1998, D.C. Law 12-81, § 10(nn), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 substituted “an answer” for “and answer” in the first sentence.

**Legislative history of Law 12-81.** — Law 12-81, the “Technical Amendments Act of 1998,” was introduced in Council and assigned Bill No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first

and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

**Cited in** *Murphy v. McCloud*, App. D.C., 650 A.2d 202 (1994).

## CHAPTER 33. QUIETING TITLE OBTAINED BY ADVERSE POSSESSION.

Sec. 16-3301. Complaint; allegations; parties; service; decree.

### § 16-3301. Complaint; allegations; parties; service; decree.

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(Mar. 24, 1998, D.C. Law 12-81, § 10(oo), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in (b).

**Legislative history of Law 12-81.** — Law 12-81, the “Technical Amendments Act of 1998,” was introduced in Council and assigned Bill No. 12-408, which was referred to the Commit-

tee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

## CHAPTER 37. REPLEVIN.

### § 16-3701. Demand prior to action; costs.

**Remedy not exclusive.** — This chapter does not bar the exercise of the contractual right to self-help repossession once a replevin

action is filed. *Headspeth v. Mercedes-Benz Credit Corp.*, App. D.C., 709 A.2d 717 (1998).

There is no provision in this chapter that



bars the creditor's pursuit of alternate remedies simultaneously; private contractual rights to recover property are not foreclosed simply because the secured creditor files a replevin action to recover the property. *Headspeth v.*

*Mercedes-Benz Credit Corp.*, App. D.C., 709 A.2d 717 (1998).

**Cited in** *Voytsechovska v. Albert*, 126 WLR 849 (Super. Ct. 1998).

### **§ 16-3708. Motion for return of property; procedure; objection to sufficiency of security.**

**Cited in** *Voytsechovska v. Albert*, 126 WLR 849 (Super. Ct. 1998).

### **§ 16-3710. Determination and measure of plaintiff's damages.**

**Cited in** *Voytsechovska v. Albert*, 126 WLR 849 (Super. Ct. 1998).

### **§ 16-3712. Verdict where goods are eloigned.**

**Cited in** *Voytsechovska v. Albert*, 126 WLR 849 (Super. Ct. 1998).

### **§ 16-3713. Judgment where goods are eloigned.**

**Remedy not exclusive.** — This chapter does not bar the exercise of the contractual right to self-help repossession once a replevin action is filed. *Headspeth v. Mercedes-Benz*

*Credit Corp.*, App. D.C., 709 A.2d 717 (1998).

**Cited in** *Voytsechovska v. Albert*, 126 WLR 849 (Super. Ct. 1998).

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## **CHAPTER 39. SMALL CLAIMS AND CONCILIATION PROCEDURE IN SUPERIOR COURT.**

Sec.

16-3907. Judgment; stay; installment payments; enforcement.

### **§ 16-3901. Practice; applicability of other laws and rules of court.**

**Cited in** *Voytsechovska v. Albert*, 126 WLR 849 (Super. Ct. 1998).

### **§ 16-3907. Judgment; stay; installment payments; enforcement.**

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 10(pp), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction.

**Legislative history of Law 12-81.** — Law 12-81, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill

No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the

Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

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## CHAPTER 41. SURETIES.

### § 16-4102. Subrogation of surety satisfying judgment.

**Cited in** Rab v. Safeco Ins. Co. of Am., App. D.C., 556 A.2d 1072 (1989); Voytsechovska v. Albert, 126 WLR 849 (Super. Ct. 1998).

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## CHAPTER 43. ARBITRATION.

Sec.

16-4309. Change of award by arbitrators.

16-4317. Appeals.

### § 16-4301. Validity of arbitration agreement.

**Cited in** Masurovsky v. Green, App. D.C., 687 A.2d 198 (1996).

### § 16-4302. Proceedings to compel or stay arbitration.

**Response to application to stay arbitration not a pleading.** — A response to an application to stay arbitration, although styled as an “Answer to the Complaint to Stay Arbitration”, was not a pleading such that all counterclaims would be required to be stated in the pleading under Superior Court Civil Rule 13(a). A.S. Johnson Co. v. Atlantic Masonry Co., App. D.C., 693 A.2d 1117 (1997).

**Presumption in favor of arbitration.** — The presumption in favor of arbitration attaches only after the trial court has determined

that a valid agreement to arbitrate exists. Masurovsky v. Green, App. D.C., 687 A.2d 198 (1996).

**Courts to determine whether parties agreed to arbitrate.** — The courts, not arbitrators, are to determine whether the parties have agreed to arbitrate a particular matter unless the parties themselves have agreed to submit the arbitrability question itself to arbitration. Masurovsky v. Green, App. D.C., 687 A.2d 198 (1996).

### § 16-4309. Change of award by arbitrators.

On application of a party or, if an application of the Court is pending under section 16-4310, 16-4311, or 16-4312 on submission to the arbitrators by the Court under such conditions as the Court may order, the arbitrators may modify or correct the award on the grounds stated in section 16-4312(a)(1) and (3), or for the purpose of clarifying the award. The application shall be made within 20 days after delivery of the award to the applicant. Written notice thereof shall be given forthwith to the opposing party, stating he must serve his objections thereto, if any, within 10 days from the notice. The award so modified or corrected is subject to the provisions of sections 16-4310, 16-4311, and 16-4312. (1973 Ed., T. 16, Appx., § 10; Apr. 7, 1977, D.C. Law 1-117, § 10, 23 DCR 9690; Sept. 6, 1980, D.C. Law 3-85, § 2(a), 27 DCR 2900; Apr. 30, 1988,



D.C. Law 7-104, § 4(u), 35 DCR 147; Mar. 24, 1998, D.C. Law 12-81, § 10(qq), 45 DCR 745.)

**Effect of amendments.**

D.C. Law 12-81, in the first sentence, substituted "on the grounds stated in section 16-4312(a)(1) and (3)" for "upon the grounds stated in paragraphs (1) and (3) of subdivision (a) of section 16-4312."

**Legislative history of Law 12-81.** — Law 12-81, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill

No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

## § 16-4311. Vacating an award.

**Cited** in *District of Columbia v. Fraternal Order of Police*, App. D.C., 691 A.2d 115 (1997);

*Siddiq v. Ostheimer*, App. D.C., 718 A.2d 145 (1998).

## § 16-4315. Applications to Court.

**Response to application to stay arbitration not a pleading.** — A response to an application to stay arbitration, although styled as an "Answer to the Complaint to Stay Arbitration", was not a pleading such that all coun-

terclaims would be required to be stated in the pleading under Superior Court Civil Rule 13(a). *A.S. Johnson Co. v. Atlantic Masonry Co.*, App. D.C., 693 A.2d 1117 (1997).

## § 16-4317. Appeals.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 10(rr), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in (a)(4).

**Legislative history of Law 12-81.** — See note to § 16-4309.

**Cited** in *Masurovsky v. Green*, App. D.C., 687 A.2d 198 (1996); *George Washington Univ. v. Scott*, App. D.C., 711 A.2d 1257 (1998).

# CHAPTER 45. UNIFORM CHILD CUSTODY PROCEEDINGS.

## § 16-4501. Purposes of chapter.

**Attempt by biological parents to regain custody of adopted child.** — Termination of biological parents' parental rights in an adoption proceeding changed the biological parents into legal strangers to their children; thus, in order to regain custody of the children from the adoptive parents, the biological parents had to allege unfitness, abandonment, or some other

special circumstances. *A.J. v. L.O.*, App. D.C., 697 A.2d 1189 (1997).

Where children had been living with their legal adoptive parent for approximately five years, the biological parents had to prove parental unfitness to regain custody of the children. *A.J. v. L.O.*, App. D.C., 697 A.2d 1189 (1997).

## § 16-4502. Definitions.

**“Proceeding concerning the custody of the child.”** — The phrase “a proceeding concerning the custody of the child” is not to be given a restrictive, narrow or crabbed interpretation, but is entitled to a broad and reality-oriented interpretation. *Ex Parte In the Matter*

of the Petition of J.D.S. and A.F.C. for Adoption of Minor Child, 125 WLR 1809 (Super. Ct. 1997).

**Cited in** *A.J. v. L.O.*, App. D.C., 697 A.2d 1189 (1997); *Desai v. Fore*, App. D.C., 711 A.2d 822 (1998).

## § 16-4503. Exercise of jurisdiction.

**Retention of jurisdiction.** — A court which has established initial jurisdiction over a question of child support does not lose authority to

enforce the decree if both parents move to other jurisdictions. *Desai v. Fore*, App. D.C., 711 A.2d 822 (1998).

## CHAPTER 50. CRIMINAL RECORDS CHECK.

Sec.

16-5001. Definitions.

16-5002. Criminal records check required for certain individuals.

16-5003. Request for criminal records check.

16-5004. Payment of fees.

16-5005. Confidentiality of information to be maintained.

Sec.

16-5006. Effect of failure to request criminal records check.

16-5007. Penalties for violations of act.

16-5008. Rules.

## § 16-5001. Definitions.

For the purposes of this chapter, the term:

(1) “Adult” means an individual who has attained 18 years of age.

(2) “Director” means the Director of the District of Columbia Department of Human Services, or his designee.

(3) “Division” means the Family Division of the Superior Court of the District of Columbia.

(4) “Foster family home” means a home described in subchapter XVII of the Chapter 2 of Title 3, or any other foster family home in the District of Columbia established by law.

(5) “Licensed child-placing agency” means an individual or entity defined as such in §32-1002. (Apr. 20, 1999, D.C. Law 12-257, § 2, 46 DCR 1309.)

**Temporary addition of chapter.** — Sections 2 through 9 of D.C. Law 12-205 enacted §§ 16-5001 through 16-5008 comprising Chapter 50 of Title 16.

Section 11(b) of D.C. Law 12-205 provides that the act shall expire after 225 days of its having taken effect.

**Emergency act amendments.** — For temporary addition of chapter, see §§ 2-9 of the Criminal Background Investigation for the Protection of Children Congressional Review Emergency Act of 1999 (D.C. Act 13-6, February 8, 1999, 46 DCR 2296).

Section 11 of D.C. Act 13-6 provides for the application of the act.

**Legislative history of Law 12-205.** — Law 12-205, the “Criminal Background Investiga-

tion for the Protection of Children Temporary Act of 1998,” was introduced in Council and assigned Bill No. 12-693. The Bill was adopted on first and second readings on July 7, 1998, and September 22, 1998, respectively. Signed by the Mayor on October 13, 1998, it was assigned Act No. 12-491 and transmitted to both Houses of Congress for its review. D.C. Law 12-205 became effective on March 26, 1999.

**Legislative history of Law 12-257.** — Law 12-257, the “Criminal Records Check for the Protection of Children Act of 1998,” was introduced in Council and assigned Bill No. 12-694, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on December 1, 1998, and



December 15, 1998, respectively. Signed by the Mayor on December 29, 1998, it was assigned Act No. 12-608 and transmitted to both Houses

of Congress for its review. D.C. Law 12-257 became effective on April 20, 1999.

## **§ 16-5002. Criminal records check required for certain individuals.**

(a) The following individuals shall apply for a criminal records check in accordance with § 16-5003:

(1) An individual who seeks to become an adoptive parent of a child under Chapter 3 of Title 16 of the District of Columbia Code;

(2) An adult, other than a parent of the child, but including a relative of the child, who resides in the home of an individual described in paragraph (1) of this section;

(3) Upon order of a judicial officer, an individual with whom a child is placed under § 16-2320(a)(2) or (a)(3)(C);

(4) Upon order of a judicial officer, an adult who resides in the home of an individual with whom a child is placed under § 16-2320(a)(2) or (a)(3)(C), including a parent or other relative of the child; and

(5) An adult who resides in a foster family home in which a child is placed, including a relative of the child, and, upon order of a judicial officer, a parent of the child.

(b) A criminal records check under this act must be conducted in accordance with section 471(a)(20) of the Social Security Act, approved June 17, 1980 (94 Stat. 501; 42 U.S.C. § 671(a)(20)). (Apr. 20, 1999, D.C. Law 12-257, § 3, 46 DCR 1309.)

**Temporary addition of chapter.** — See note to § 16-5001.

**Legislative history of Law 12-205.** — See note to § 16-5001.

**Emergency act amendments.** — For temporary addition of chapter, see § 16-5001.

**Legislative history of Law 12-257.** — See note to § 16-5001.

## **§ 16-5003. Request for criminal records check.**

(a) Within the time stated in subsection (b) of this section, an individual described in § 16-5002 shall submit to the Metropolitan Police Department (“MPD”), for transmittal to the Federal Bureau of Investigation (“FBI”), a complete set of legible fingerprints on a fingerprint card in a form approved by the FBI. The MPD shall request the FBI to conduct a criminal records check of the individual and shall request that the FBI forward the results to the Director. After receiving the results of the criminal record check, the Director shall forward them to the Division at the request of the Division.

(b) The time in which the request must be made to the FBI pursuant to subsection (a) of this section is as follows:

(1) For an individual described in § 16-5002(a)(1):

(A) Before the individual files a petition for adoption pursuant to § 16-305; and

(B) If the child has been found to be neglected under Chapter 23 of Title 16 of the District of Columbia Code, or has been relinquished to a licensed child-placing agency, before the child is placed in the individual’s home;

(2) For an individual described in § 16-5002(a)(2):

(A) Before the individual described in § 16-5002(a)(1) files a petition for adoption; and

(B) Before the child is placed in the individual's home;

(3) For any individual who becomes a resident of the home of the individual described in § 16-5002(a)(1) after the filing of the petition for adoption, within 10 calendar days after the individual becomes a resident of the home;

(4) For an individual described in § 16-5002(a)(3) or (4) who is a foster parent, before the child is placed in the individual's home, and, for any other individual described in § 16-5002(a)(3) or (4), within 2 business days of entry of the judicial order placing the child in the home;

(5) For an individual described in § 16-5002(a)(5), before the placement of a child in the foster family home, unless, within 1 year of the placement of the child in the home, the Director has received the results of a criminal records check and considers the results satisfactory;

(6) For any individual described in § 16-5002(a)(5) who was not a resident of the foster family home when the child was placed in the home, within 10 days after the individual becomes a resident of the home;

(7) For an individual described in § 16-5002(a)(4) or (5) who was not a resident of the foster family home when the child was placed in the home, within 10 calendar days after the individual becomes a resident of that home; and

(8) For an individual described in § 16-5002, who was not subject to this act solely because the individual was a minor, but who becomes an adult while the child is residing in the same home, within 90 calendar days after the individual becomes an adult. (Apr. 20, 1999, D.C. Law 12-257, § 4, 46 DCR 1309.)

**Temporary addition of chapter.** — See note to § 16-5001.

**Emergency act amendments.** — For temporary addition of chapter, see notes to § 16-5001.

**Legislative history of Law 12-205.** — See note to § 16-5001.

**Legislative history of Law 12-257.** — See note to § 16-5001.

## § 16-5004. Payment of fees.

(a) Except as otherwise provided in subsections (b) and (c) of this section, the Director shall pay the fees charged by the FBI and the MPD for processing a request for a criminal records check from funds made available to the District of Columbia under Title IV, Part E, of the Social Security Act, approved June 17, 1980 (94 Stat. 501; 42 U.S.C. § 670 et seq.), to the extent permitted by that Act, or, otherwise, from other available funds.

(b) The Division shall pay the fees described in subsection (a) of this section for an individual described in § 16-5002(a)(3) or (4), in a case in which a child is found to be neglected for physical or sexual abuse, from funds made available to the District of Columbia under Title IV, Part E, of the Social Security Act, approved June 17, 1980 (94 Stat. 501; 42 U.S.C. § 670 et seq.), to the extent permitted by that Act, or, otherwise, from other available funds.

(c) The following individuals shall pay the fees described in subsection (a) of this section:

(1) An individual described in § 16-5002(a)(1) who is seeking to become an adoptive parent of a child, other than a child found to be neglected under Chapter 23 of Title 16 of the District of Columbia Code or a child with respect to whom parental rights have been relinquished to the District of Columbia under § 32-1007; and

(2) An adult who resides in the home of an individual described in paragraph (1) of this subsection. (Apr. 20, 1999, D.C. Law 12-257, § 5, 46 DCR 1309.)

**Temporary addition of chapter.** — See note to § 16-5001.

**Emergency act amendments.** — For temporary addition of chapter, see notes to § 16-5001.

**Legislative history of Law 12-205.** — See note to § 16-5001.

**Legislative history of Law 12-257.** — See note to § 16-5001.

## § 16-5005. Confidentiality of information to be maintained.

(a) No employee of the Department of Human Services or other agency of the District of Columbia shall disclose information obtained as a result of a request submitted pursuant to § 16-5003(a) to any unauthorized individual or entity.

(b) This act does not authorize the disclosure of information concerning an individual who was not an adult, or prosecuted as an adult, at the time to which the information pertains if the disclosure of such information is prohibited by other law. (Apr. 20, 1999, D.C. Law 12-257, § 6, 46 DCR 1309.)

**Temporary addition of chapter.** — See note to § 16-5001.

**Emergency act amendments.** — For temporary addition of chapter, see notes to § 16-5001.

in (b), is D.C. Law 12-257.

**Legislative history of Law 12-205.** — See note to § 16-5001.

**Legislative history of Law 12-257.** — See note to § 16-5001.

**References in text.** — “This act,” referred to

## § 16-5006. Effect of failure to request criminal records check.

(a) If an individual described in § 16-5002(a)(1) fails to request a criminal records check as required by this chapter, the Division may deny or dismiss the petition for adoption.

(b) If an individual described in § 16-5002(a)(2) fails to request a criminal records check as required by this chapter, the Division may dismiss the petition for adoption.

(c) If an individual described in § 16-5002(a)(3) fails to request a criminal records check as required by this chapter, the Division may refuse to place the child in the individual’s home, remove the child from the home, or take other appropriate action to ensure the health, welfare, or safety of the child.

(d) If an individual described in § 16-5002(a)(4) fails to request a criminal records check as required by this chapter, the Division may remove the child from the home or take any other appropriate action to ensure the health, welfare, or safety of the child.



(e) If an individual described in § 16-5002(a)(5) fails to request a criminal records check as required by this chapter, the Division may remove the child from the foster family home or take any other appropriate action to ensure the health, welfare, and safety of the child.

(f) If an individual described in § 16-5002(b)(6) fails to request a criminal records check as required by this chapter, the Division may take the applicable action described in subsection (b), (d), or (e) of this section. (Apr. 20, 1999, D.C. Law 12-257, § 7, 46 DCR 1309.)

**Temporary addition of chapter.** — See note to § 16-5001.

**Emergency act amendments.** — For temporary addition of chapter, see notes to § 16-5001.

**Legislative history of Law 12-205.** — See note to § 16-5001.

**Legislative history of Law 12-257.** — See note to § 16-5001.

## § 16-5007. Penalties for violations of act.

(a) An individual who discloses confidential information in violation of § 16-5005 is guilty of a criminal offense and, upon conviction, is subject to a fine not to exceed \$1,000 or a term of incarceration of not more than 180 days, or both.

(b) Prosecutions for violation of this chapter shall be brought in the name of the District of Columbia upon information by the Corporation Counsel. (Apr. 20, 1999, D.C. Law 12-257, § 8, 46 DCR 1309.)

**Temporary addition of chapter.** — See note to § 16-5001.

**Emergency act amendments.** — For temporary addition of chapter, see notes to § 16-5001.

**References in text.** — “Section 6,” referred

to in (a), is a reference to D.C. Law 12-257, § 6, codified as § 16-5005.

**Legislative history of Law 12-205.** — See note to § 16-5001.

**Legislative history of Law 12-257.** — See note to § 16-5001.

## § 16-5008. Rules.

The Mayor shall promulgate rules to carry out the purposes of this chapter. (Apr. 20, 1999, D.C. Law 12-257, § 9, 46 DCR 1309.)

**Temporary addition of chapter.** — See note to § 16-5001.

**Emergency act amendments.** — For temporary addition of chapter, see notes to § 16-5001.

**Legislative history of Law 12-205.** — See note to § 16-5001.

**Legislative history of Law 12-257.** — See note to § 16-5001.

## TITLE 17. REVIEW.

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### CHAPTER 3. DISTRICT OF COLUMBIA COURT OF APPEALS.

Sec. 17-304. Stay upon application for review of, or	pending appeal from, administrative order or decision.
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#### § 17-304. Stay upon application for review of, or pending appeal from, administrative order or decision.

(a) An application for review, or pendency of an appeal, provided for by section 17-303, does not operate as a stay of the order or decision from which the appeal is taken:

\* \* \* \* \*

(2) in any other case unless so ordered by the Mayor or Council of the District of Columbia, by the independent agency, or by the District of Columbia Court of Appeals as provided by subsection (b) of this section.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 11, 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81, in (a)(2), substituted “Mayor” for “Commissioner.”

#### § 17-305. Scope of review.

**Cited** in *Jones v. United States*, App. D.C., 687 A.2d 574 (1996); *Pratt v. University of D.C.*, App. D.C., 691 A.2d 158 (1997); *Maxwell v. Gallagher*, 709 A.2d 100 (D.C. 1998); *Concord Enters., Inc. v. Binder*, App. D.C., 710 A.2d 219 (1998); *West v. United States*, App. D.C., 710 A.2d 866 (1998); *Portillo v. United States*, App.

D.C., 710 A.2d 883 (1998); *Jefferson v. United States*, App. D.C., 712 A.2d 477 (1998); *N.P.P Contractors v. John Canning & Co.*, App. D.C., 715 A.2d 139 (1998); *Haqq v. Dancy-Bey*, App. D.C., 715 A.2d 911 (1998); *In re E.H.*, App. D.C., 718 A.2d 162 (1998).

#### § 17-306. Determination of appeals.

##### **Reversal of conviction.**

Where reversal of the trial court effectively denied the plaintiff any relief, the appellate court remanded the case so that the trial court could rule on motions for additional discovery

on matters relevant to claims the plaintiff had voluntarily dismissed. *District of Columbia v. Tinker*, App. D.C., 691 A.2d 57 (1997).

**Cited** in *Braddock v. Smith*, App. D.C., 711 A.2d 835 (1998).





**PART III.**  
**DECEDENTS' ESTATES AND FIDUCIARY  
RELATIONS.**

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**TITLE 18. WILLS.**

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**CHAPTER 3. DEVISES AND BEQUESTS.**

**§ 18-301. Estates disposable by will.**

**Cited in** Lewis v. Lewis, App. D.C., 708 A.2d  
249 (1998).

**§ 18-308. Death of devisee or legatee; lapsed or void de-  
vises or bequests.**

**Cited in** Lewis v. Lewis, App. D.C., 708 A.2d  
249 (1998).

## TITLE 19. DESCENT AND DISTRIBUTION.

### CHAPTER 1. RIGHTS OF SURVIVING SPOUSE AND CHILDREN.

Sec.

19-113. Renunciation of devises and bequests; election; time limitations; renunciation or election by guardian or

fiduciary; maximum rights; effect of no devise or bequest or if nothing passes under either; antenuptial or postnuptial agreements.

### § 19-101. Family allowance; construction; penalties.

Cited in *Berryman v. Thorne*, App. D.C., 700 A.2d 181 (1997); *Lewis v. Lewis*, App. D.C., 708 A.2d 249 (1998).

### § 19-102. Dower; quarantine; curtesy abolished.

Cited in *Berryman v. Thorne*, App. D.C., 700 A.2d 181 (1997).

### § 19-103. Forfeiture of dower by desertion and adultery.

**Inapplicable to election of statutory share under § 19-113.** — This section and § 19-104, which provides for the conveyance of property where a spouse is adjudicated insane or is absent and unheard of, do not impose

restrictions on a surviving spouse's ability to elect to take his or her statutory share under § 19-113. *Berryman v. Thorne*, App. D.C., 700 A.2d 181 (1997).

### § 19-104. Absent or incompetent spouse.

**Inapplicable to election of statutory share under § 19-113.** — This section and § 19-103, which provides for forfeiture of dower for desertion, abandonment, or adultery, do not

impose restrictions on a surviving spouse's ability to elect to take his or her statutory share under § 19-113. *Berryman v. Thorne*, App. D.C., 700 A.2d 181 (1997).

### § 19-113. Renunciation of devises and bequests; election; time limitations; renunciation or election by guardian or fiduciary; maximum rights; effect of no devise or bequest or if nothing passes under either; antenuptial or postnuptial agreements.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 12, 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in (c).

**Legislative history of Law 12-81.** — Law 12-81, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first

and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

**Sections 19-103 and 19-104 inapplicable to this section.** — Section 19-103, providing

for forfeiture of dower for desertion, abandonment, or adultery, and § 19-104, providing for the conveyance of property where a spouse is adjudicated insane or is absent and unheard of, do not impose restrictions on a surviving spouse's ability to elect to take his or her statutory share under this section. *Berryman v. Thorne*, App. D.C., 700 A.2d 181 (1997).

**Elective share after renunciation subject to apportionment.** — Where a widow renounced her husband's will under this section, her elective share was equivalent to an intestate share of her husband's estate and

subject to the apportionment statute, § 47-3714; it was not subject to any directives in the will. *Rockler v. Severeid*, App. D.C., 691 A.2d 97 (1997).

**But not subject to estate taxes.** — Widow's elective share is not subject to federal or District estate taxes by virtue of the marital deduction recognized in § 47-3714. *Rockler v. Severeid*, App. D.C., 691 A.2d 97 (1997).

**Cited in** *Duggan v. Keto*, App. D.C., 554 A.2d 1126 (1989); *Dickson v. Mintz*, App. D.C., 634 A.2d 1243 (1993).

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## CHAPTER 3. INTESTATES' ESTATES.

### § 19-301. Course of descents generally.

**Cited in** *Lewis v. Lewis*, App. D.C., 708 A.2d 249 (1998).

### § 19-303. When surviving spouse entitled to one-third.

**Elective share after renunciation subject to apportionment.** — Where a widow renounced her husband's will under § 19-113, her elective share was equivalent to an intestate share of her husband's estate and subject

to the apportionment statute, § 47-3714; it was not subject to any directives in the will. *Rockler v. Severeid*, App. D.C., 691 A.2d 97 (1997).

### § 19-308. Share of father and mother.

**Cited in** *Lewis v. Lewis*, App. D.C., 708 A.2d 249 (1998).

### § 19-315. No distinction between whole- and half-blood.

**Cited in** *Lewis v. Lewis*, App. D.C., 708 A.2d 249 (1998).

### § 19-321. Descent through alien ancestor no bar.

**Cited in** *Lewis v. Lewis*, App. D.C., 708 A.2d 249 (1998).

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## CHAPTER 7. ESCHEAT.

### § 19-701. Escheatment generally.

**Cited in** *Lewis v. Lewis*, App. D.C., 708 A.2d 249 (1998).



# TITLE 20. PROBATE AND ADMINISTRATION OF DECEDENTS' ESTATES.

## CHAPTER 1. GENERAL PROVISIONS.

### § 20-105. Devolution of property at death.

Cited in *United States v. Wade*, 992 F. Supp.  
6 (D.D.C. 1997).

## CHAPTER 5. THE PERSONAL REPRESENTATIVE AND SPECIAL ADMINISTRATOR; APPOINTMENT, CONTROL AND TERMINATION OF AUTHORITY.

### *Subchapter I. Appointment and Issuance of Letters; Bond; Accrual of Duties and Powers.*

Sec.  
20-502. Bond; form.

### *Subchapter I. Appointment and Issuance of Letters; Bond; Accrual of Duties and Powers.*

### § 20-501. Conditions of appointment.

Cited in *In re Estate of Spinner*, App. D.C.,  
717 A.2d 362 (1998).

### § 20-502. Bond; form.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 13(a), 45 DCR 745.)

#### **Effect of amendments.**

D.C. Law 12-81 validated a previously made technical correction in (a-1).

**Legislative history of Law 12-81.** — Law 12-81, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first

and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

Cited in *In re Estate of Spinner*, App. D.C.,  
717 A.2d 362 (1998).

### *Subchapter III. Suspension and Termination of Powers.*

### § 20-523. Termination; effect.

**Failure to raise statute of limitations before court bars issue on appeal.** — Surety company for personal representative was an interested party before the court, and therefore,

waived for appeal the affirmative defense of statute of limitations when it failed to file an objection to the Report of the Auditor-Master or raise the defense before the Probate division. In

re Estate of Spinner, App. D.C., 717 A.2d 362 (1998).

## CHAPTER 7. ADMINISTRATION OF THE ESTATE.

### *Subchapter II. Inventory and Appraisal.*

Sec.

20-711. Inventory; general.

Sec.

20-732. Waiver of formal Court audit; supervised administration.

### *Subchapter IV. Waiver of Inventories and Accounts.*

20-731. Waiver of filing; supervised administration.

## *Subchapter I. Duties of Personal Representative; Notice of Appointment to Heirs, Legatees, and Creditors.*

### § 20-701. Status and duties of personal representative.

#### **Fiduciary duty.**

A personal representative owes a fiduciary duty to the estate and its beneficiaries. Hines v.

Burke, App. D.C., 715 A.2d 116 (1998).

Cited in Lewis v. Lewis, App. D.C., 708 A.2d 249 (1998).

### *Subchapter II. Inventory and Appraisal.*

### § 20-711. Inventory; general.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 13(b), 45 DCR 745.)

#### **Effect of amendments.**

D.C. Law 12-81 validated a previously made technical correction in the introductory paragraph of (a).

**Legislative history of Law 12-81.** — Law 12-81, the “Technical Amendments Act of 1998,” was introduced in Council and assigned Bill No. 12-408, which was referred to the Commit-

tee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

### *Subchapter III. Accounting.*

### § 20-725. Failure to render account.

Cited in In re Estate of Spinner, App. D.C., 717 A.2d 362 (1998).

*Subchapter IV. Waiver of Inventories and Accounts.*

**§ 20-731. Waiver of filing; supervised administration.**

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 13(c), 45 DCR 745.)

**Effect of amendments.**

D.C. Law 12-81 validated previously made technical corrections in (b).

**Cited in** Lewis v. Lewis, App. D.C., 708 A.2d 249 (1998); In re Estate of Spinner, App. D.C., 717 A.2d 362 (1998).

**Legislative history of Law 12-81.** — See note to § 20-711.

**§ 20-732. Waiver of formal Court audit; supervised administration.**

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 13(d), 45 DCR 745.)

**Effect of amendments.**

D.C. Law 12-81 validated previously made technical corrections in (a) and (c).

*Subchapter V. Powers of Personal Representative.*

**§ 20-742. Court order.**

**Cited in** Associates Fin. Servs. of Am. v. District of Columbia, App. D.C., 689 A.2d 1217 (1997).

**§ 20-743. Improper exercise of power; breach of fiduciary duty.**

**Breach of fiduciary duty generally.** — A personal representative breaches fiduciary duty owed to estate and its beneficiaries when the exercise of power over the estate is contrary

to law or in violation of a court order, or when the representative fails to disclose material information to beneficiaries. Hines v. Burke, App. D.C., 715 A.2d 116 (1998).

**§ 20-743.1. Sale, encumbrance, or transaction involving conflict of interest; voidable; exceptions.**

**Purchase by personal representative.** — Where a personal representative directly or indirectly purchases on her own account an asset of the estate at a sale which is not

authorized by the court or the estate beneficiaries, the sale is voidable at the behest of any beneficiary. Hines v. Burke, App. D.C., 715 A.2d 116 (1998).

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CHAPTER 9. CLAIMS.

Sec.

20-906. Order of payment.

20-908. Action on claims; remedy for failure to act.



**§ 20-906. Order of payment.**

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 13(e), 45 DCR 745.)

**Effect of amendments.**

D.C. Law 12-81 validated a previously made technical correction in (a)(4).

**Legislative history of Law 12-81.** — Law 12-81, the “Technical Amendments Act of 1998,” was introduced in Council and assigned Bill No. 12-408, which was referred to the Commit-

tee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

**§ 20-908. Action on claims; remedy for failure to act.**

\* \* \* \* \*

(b) If no action is taken by the personal representative under subsection (a) of this section, the claimant may file a verified complaint in the Court.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 13(f), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in (b).

**Legislative history of Law 12-81.** — See note to § 20.906.

**Cited in** District of Columbia v. Gantt, App. D.C., 558 A.2d 1120 (1989).

**CHAPTER 11. SPECIAL PROVISIONS RELATING TO DISTRIBUTION.**

Sec.  
20-1104. Distribution; effect.

**§ 20-1102. Distribution in kind; valuation; method.**

**Cited in** Associates Fin. Servs. of Am. v. District of Columbia, App. D.C., 689 A.2d 1217 (1997).

**§ 20-1104. Distribution; effect.**

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 13(g), 45 DCR 745.)

**Effect of amendments.**

D.C. Law 12-81 validated a previously made technical correction in (a).

**Legislative history of Law 12-81.** — Law 12-81, the “Technical Amendments Act of 1998,” was introduced in Council and assigned Bill No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the

Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

**Applicability prior to 1995 amendment.** — The version of this section in effect prior to its 1995 amendment protects a lender from claims against an estate where, in reliance on a title search of the real estate records and without actual or constructive notice of a competing

claim, the lender takes an interest in real property from the distributee of the estate in exchange for a deed of trust duly filed. Associates Fin. Servs. of Am. v. District of Columbia, App. D.C., 689 A.2d 1217 (1997).

## CHAPTER 13. CLOSING THE ESTATE.

Sec.  
20-1303. Limitations.

### § 20-1303. Limitations.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 13(h), 45 DCR 745.)

#### Effect of amendments.

D.C. Law 12-81 validated a previously made technical correction in (b)(2).

**Legislative history of Law 12-81.** — Law 12-81, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill No. 12-408, which was referred to the Commit-

tee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

TITLE 21. FIDUCIARY RELATIONS AND THE MENTALLY ILL.

CHAPTER 1. GUARDIANSHIP OF INFANTS.

Subchapter I. Appointment of Guardian; Bond.

§ 21-101. Natural guardians of the person.

**Adoptive parent is “natural” parent.** — An adoptive father became the “natural parent” of the children at the time of the adoption; thus, he was entitled to the same legal presumption of custody that all other natural parents have,

including the provision that when one parent dies, the natural guardianship devolves upon the other. *A.J. v. L.O.*, App. D.C., 697 A.2d 1189 (1997).

CHAPTER 3. TRANSFERS TO MINORS; UNIFORM LAW.

- Sec.  
21-302. Scope and jurisdiction.  
21-309. Manner of creating custodial property and effecting transfer; designation of initial custodian; control.  
21-316. Exemption of third person from liability.  
21-317. Liability to third persons.

- Sec.  
21-318. Renunciation, resignation, death, or removal of custodian; designation of successor custodian.  
21-319. Accounting by and determination of liability of custodian.  
21-320. Termination of custodianship.  
21-321. Applicability.

§ 21-302. Scope and jurisdiction.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 14(a), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in the section heading.  
**Legislative history of Law 12-81.** — Law 12-81, the “Technical Amendments Act of 1998,” was introduced in Council and assigned Bill No. 12-408, which was referred to the Commit-

tee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

§ 21-309. Manner of creating custodial property and effecting transfer; designation of initial custodian; control.

(a) Custodial property is created and a transfer is made when:

\* \* \* \* \*

(8) An interest in any property not described in paragraphs (1) through (6) of this subsection is transferred to an adult other than the transferor or to a trust company by a written instrument in substantially the form set forth in subsection (b) of this section.



\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 14(b), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81, in (a)(8), inserted “of this subsection” and validated a previously made technical correction.

**Legislative history of Law 12-81.** — See note to § 21-302.

## § 21-316. Exemption of third person from liability.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 14(c), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in the introductory paragraph.

**Legislative history of Law 12-81.** — See note to § 21-302.

## § 21-317. Liability to third persons.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 14(d), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in (a)(2).

**Legislative history of Law 12-81.** — See note to § 21-302.

## § 21-318. Renunciation, resignation, death, or removal of custodian; designation of successor custodian.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 14(e), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated previously made technical corrections in (e).

**Legislative history of Law 12-81.** — See note to § 21-302.

## § 21-319. Accounting by and determination of liability of custodian.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 14(f), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in (a)(2).

**Legislative history of Law 12-81.** — See note to § 21-302.

## § 21-320. Termination of custodianship.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 14(g), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated previously made

technical corrections in the introductory paragraph and (3).

**Legislative history of Law 12-81.** — See note to § 21-302.

§ 21-321. Applicability.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 14(h), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in the introductory paragraph.

**Legislative history of Law 12-81.** — See note to § 21-302.

CHAPTER 5. HOSPITALIZATION OF THE MENTALLY ILL.

<i>Subchapter IV. Hospitalization Under Court Order.</i>	Sec.	notice of inability; persons hospitalized prior to September 15, 1964.
Sec.		
21-546. Periodic requests for examination of hospitalized patient; procedure for examination and detention or release; petition to court.		<i>Subchapter VI. Miscellaneous Provisions.</i>
<i>Subchapter V. Right to Communication; Exercise of Other Rights.</i>	21-581. Proceedings instituted by Mayor of the District of Columbia.	
	21-584. Witness fees.	
21-564. Exercise of property and other rights;		

*Subchapter I. Definitions; Commission on Mental Health.*

§ 21-502. Commission on Mental Health; composition; appointment and terms of members; organization; chairman; salaries.

Cited in In re Johnson, App. D.C., 691 A.2d 628 (1997); In re Johnson, App. D.C., 699 A.2d 362 (1997).

§ 21-503. Examinations and hearings; subpoenas; witnesses; place.

**Screening function of Commission.** — Before a subpoena for mental examination may issue at the request of the Commission of Mental Health, the Commission must first perform a screening function, testing the sufficiency of the petition and obtaining additional information, so that it can then examine the person alleged to be mentally ill and hold the required hearing. In re Johnson, App. D.C., 699 A.2d 362 (1997).

**Opportunity to challenge subpoenas.** — In the context of a private, non-emergency

petition for judicial hospitalization, there must be an opportunity to challenge subpoenas issued pursuant to this section; the trial court has discretion to determine the scope of the hearing, including whether further evidence is required, consistent with constitutional considerations of privacy and liberty and the statutory mandate that the Commission of Mental Health undertake a prompt examination. In re Johnson, App. D.C., 699 A.2d 362 (1997).

*Subchapter II. Voluntary and Nonprotesting Hospitalization.***§ 21-511. Voluntary hospitalization.**

**Parent's hospitalization of a minor.** — A habeas corpus petition challenging a mental institution's admission procedures, brought by a child who had been "voluntarily" committed by her mother but who had been released and had since reached the age of majority, was moot; the issue was not one that was "capable of repetition yet avoiding review" because the plaintiff's majority deprived her parents of authority to hospitalize her under this section.

*Hardesty v. Draper*, App. D.C., 687 A.2d 1368 (1997).

Under this section, a parent's hospitalization of a minor is equivalent to that of a person who voluntarily checks herself into a hospital. *Hardesty v. Draper*, App. D.C., 687 A.2d 1368 (1997).

**Cited in** *In re Clark*, App. D.C., 700 A.2d 781 (1997).

**§ 21-512. Release of voluntary patients.**

**Cited in** *In re Clark*, App. D.C., 700 A.2d 781 (1997).

*Subchapter III. Emergency Hospitalization.***§ 21-521. Detention of persons believed to be mentally ill; transportation and application to hospital.**

**Cited in** *In re Johnson*, App. D.C., 691 A.2d 628 (1997).

**§ 21-524. Determination and order of court.**

**Cited in** *In re Clark*, App. D.C., 700 A.2d 781 (1997).

**§ 21-525. Hearing by court.**

**Cited in** *In re Clark*, App. D.C., 700 A.2d 781 (1997).

*Subchapter IV. Hospitalization Under Court Order.***§ 21-541. Petition to Commission; copy to person affected.**

**Screening function of Commission.** — Before a subpoena for mental examination may issue at the request of the Commission of Mental Health, the Commission must first perform a screening function, testing the sufficiency of the petition and obtaining additional information, so that it can then examine the person alleged to be mentally ill and hold the required hearing. *In re Johnson*, App. D.C., 699 A.2d 362 (1997).

**Opportunity to challenge subpoenas.** — In the context of a private, non-emergency petition for judicial hospitalization, there must be an opportunity to challenge subpoenas issued pursuant to § 21-503; the trial court has

discretion to determine the scope of the hearing, including whether further evidence is required, consistent with constitutional considerations of privacy and liberty and the statutory mandate that the Commission of Mental Health undertake a prompt examination. *In re Johnson*, App. D.C., 699 A.2d 362 (1997).

**Conversion to involuntary status.** — A patient receiving voluntary outpatient psychiatric treatment can be converted to an involuntary outpatient where, in a commitment proceeding, the patient is found to be dangerous to himself or others. *In re Johnson*, App. D.C., 691 A.2d 628 (1997).

**Change in status from voluntary to in-**



**voluntary inpatient.** — There was no statutory barrier to a mental patient's change in status from a voluntary to an involuntary inpatient where the patient had (1) been subjected to an arrest warrant for sexually assaulting a hospital employee; (2) been found to be mentally ill, incompetent to stand trial, and a danger to himself and others; and (3) continued to resist treatment by proclaiming that he was

not mentally ill, even as his mental health condition had deteriorated to the point of requiring supervision to ensure that he took his medication and did not engage in violent, unprovoked sexual behavior. In re Clark, App. D.C., 700 A.2d 781 (1997).

**Cited in** In re Johnson, App. D.C., 699 A.2d 362 (1997); In re Clark, App. D.C., 700 A.2d 781 (1997).

**§ 21-542. Hearing by Commission; presence and rights of person affected; hearing regarding liability.**

**Cited in** In re Johnson, App. D.C., 691 A.2d 628 (1997); In re Clark, App. D.C., 700 A.2d 781 (1997).

**§ 21-544. Determinations of Commission; report to court; copy to person affected; right to jury trial.**

**Cited in** In re Melton, App. D.C., 597 A.2d 892 (1991); In re Johnson, App. D.C., 691 A.2d 628 (1997); In re Johnson, App. D.C., 699 A.2d

362 (1997); In re Clark, App. D.C., 700 A.2d 781 (1997).

**§ 21-545. Hearing and determination by court or jury; order; witnesses; jurors.**

**Cited in** In re Johnson, App. D.C., 691 A.2d 628 (1997); In re Johnson, App. D.C., 699 A.2d

362 (1997); In re Clark, App. D.C., 700 A.2d 781 (1997).

**§ 21-546. Periodic requests for examination of hospitalized patient; procedure for examination and detention or release; petition to court.**

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 14(i), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction.

**Legislative history of Law 12-81.** — Law 12-81, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill No. 12-408, which was referred to the Commit-

tee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

*Subchapter V. Right to Communication; Exercise of Other Rights.*

**§ 21-562. Medical and psychiatric care and treatment; records.**

**Scope of judicial review.**  
Congress authorized full use of the federal court's remedial powers to effectuate compliance with its decree ordering treatment of the

mentally ill by developing a community based mental health system when it enacted the Saint Elizabeth's Hospital and District of Columbia Mental Health Services Act, 24 U.S.C.

§§ 225 et seq. Dixon v. Barry, 967 F. Supp. 535 (D.D.C. 1997).

**Power of federal court to impose receivership.** — Extraordinary and compelling circumstances justified the use of the court's equi-

table power to impose a receivership on the District of Columbia's Commission on Mental Health Services. Dixon v. Barry, 967 F. Supp. 535 (D.D.C. 1997).

## § 21-564. Exercise of property and other rights; notice of inability; persons hospitalized prior to September 15, 1964.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 14(j), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in (a).

**Legislative history of Law 12-81.** — See note to § 21-546.

### *Subchapter VI. Miscellaneous Provisions.*

## § 21-581. Proceedings instituted by Mayor of the District of Columbia.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 14(k), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction.

**Legislative history of Law 12-81.** — See note to § 21-546.

## § 21-584. Witness fees.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 14(l), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction.

**Legislative history of Law 12-81.** — See note to § 21-546.

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## CHAPTER 11. COMMITMENT AND MAINTENANCE OF SUBSTANTIALLY RETARDED PERSONS.

Sec.

21-1111. Proceedings to charge relatives legally responsible for maintenance of public patient; collection of maintenance payments; enforcement of order; liability of decedent's estate.

21-1114. Proceeding when child brought before Family Division appears at least moderately mentally retarded.

Sec.

21-1115. Inquiry under this chapter if person convicted of offense.

21-1201. Definitions.

21-1203. Administration of medication to program participants by trained employees.

21-1205. Rules and regulations for implementation.

**§ 21-1111. Proceedings to charge relatives legally responsible for maintenance of public patient; collection of maintenance payments; enforcement of order; liability of decedent's estate.**

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 14(m), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in (a).

**Legislative history of Law 12-81.** — Law 12-81, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill No. 12-408, which was referred to the Commit-

tee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

**§ 21-1114. Proceeding when child brought before Family Division appears at least moderately mentally retarded.**

When a child is brought before the Family Division of the Superior Court upon allegations that he is delinquent, neglected, or in need of supervision, and it appears to the court, on the testimony of a physician or psychologist or other evidence, that the child is at least moderately mentally retarded as defined in the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978 (D.C. Code § 6-1901 et seq.), the court may adjourn the proceedings, other than proceedings on a motion to transfer pursuant to section 16-2307, and direct the child's parent or a guardian appointed by the court to file a petition under that act. The court may order that, pending the preparation, filing, and hearing of the petition, the child be detained in a place of safety, or be placed under the guardianship of a suitable person, if that person enters into a recognizance for his appearance. (Sept. 14, 1965, 79 Stat. 771, Pub. L. 89-183, § 1; July 29, 1970, 84 Stat. 568, Pub. L. 91-358, title I, § 150(g)(7); Oct. 22, 1970, 84 Stat. 1087, Pub. L. 91-490, § 2(a)(1), (12); 1973 Ed., § 21-1114; Mar. 3, 1979, D.C. Law 2-137, § 604(a)(2), 25 DCR 5094; Mar. 24, 1998, D.C. Law 12-81, § 14(n), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 substituted "Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978 (D.C. Code § 6-1901 et seq.," for "Mentally Retarded Citizens Constitutional Rights and Dignity Act

(D.C. Code, sec. 6-1651 et seq.)(§ 6-1901 et seq.)."

**Legislative history of Law 12-81.** — See note to § 21-1111.

**§ 21-1115. Inquiry under this chapter if person convicted of offense.**

(a) On the conviction by a court of record of competent jurisdiction of a person of an offense, or of a violation of an ordinance which is in whole or in part a violation of a statute of the District of Columbia, the court when satisfied on the testimony of a physician or a psychologist or other evidence that the person is at least moderately mentally retarded as defined in the Mentally Retarded Citizens Constitutional Rights and Dignity Act (D.C. Code



§ 6-1901 et seq.), may suspend sentence, or suspend the entering of an order sending the person to a jail, prison, or reformatory, or to a training or industrial school, and direct that a parent or guardian appointed by the court file a petition under that act.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 14(o), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81, in (a), substituted “D.C. Code § 6-1901 et seq.” for “D.C. Code, sec. 6-1651 et seq.” **Legislative history of Law 12-81.** — See note to § 21-1111.

## § 21-1201. Definitions.

For the purposes of this chapter, the term:

\* \* \* \* \*

(8) “Monitor” means:

(A) A registered nurse shall annually review the program participant’s ability to self-administer medication correctly as prescribed.

\* \* \* \* \*

(13) “Trained employee” means an individual employed to work in a program who has successfully completed a training program approved by the Mayor and is certified to administer medication to program participants, or an individual who has successfully completed a training program in medication administration approved by the State of Maryland or the Commonwealth of Virginia. (Sept. 26, 1996, D.C. Law 11-52, § 601(b), 42 DCR 3684; Apr. 9, 1997, D.C. Law 11-255, § 20(c), 44 DCR 1271; Mar. 26, 1999, D.C. Law 12-175, § 1002(a), (b), 45 DCR 7193.)

### **Effect of amendments.**

D.C. Law 12-175 deleted “at a minimum” following “nurse shall” in (8)(A); and in (13), substituted “Mayor” for “District of Columbia Board of Nursing” and added “or an individual who has successfully completed a training program in medication administration approved by the State of Maryland or the Commonwealth of Virginia.”

### **Emergency act amendments.**

For temporary amendment of section, see § 602(a) and (b) of the Fiscal Year 1999 Budget Support Emergency Act of 1998 (D.C. Act 12-401, July 13, 1998, 45 DCR 4794), § 602(a) and (b) of the Fiscal Year 1999 Budget Support Congressional Review Emergency Act of 1998 (D.C. Act 12-564, January 12, 1999, 46 DCR

669), and § 602(a) and (b) of the Fiscal Year 1999 Budget Support Congressional Review Emergency Act of 1999 (D.C. Act 13-41, March 31, 1999, 45 DCR 3446).

Section 2101 of D.C. Act 12-564 provides for the application of the act.

**Legislative history of Law 12-175.** — Law 12-175, the “Fiscal Year 1999 Budget Support Act of 1998,” was introduced in Council and assigned Bill No. 12-618, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 5, 1998, and June 2, 1998, respectively. Signed by the Mayor on June 23, 1998, it was assigned Act No. 12-399 and transmitted to both Houses of Congress for its review. D.C. Law 12-175 became effective on March 26, 1999.

### § 21-1203. Administration of medication to program participants by trained employees.

(a) Notwithstanding any other law, rule, or regulation, a program employee who has been trained in accordance with § 21-1205(b) may administer prescription or nonprescription medication to a program participant in compliance with the signed, written instructions of a licensed practitioner if:

\* \* \* \* \*

(2) The trained employee is under the general supervision of a registered nurse who has been trained and certified pursuant to rules and regulations promulgated by the Mayor under § 21-1205(a), or has successfully completed a training program in medication administration approved by the State of Maryland or the Commonwealth of Virginia; and

\* \* \* \* \*

(Mar. 26, 1999, D.C. Law 12-175, § 1002(c), 45 DCR 7193.)

**Effect of amendments.** — D.C. Law 12-175 rewrote (a)(2).

**Emergency act amendments.** — For temporary amendment of section, see § 602(c) of the Fiscal Year 1999 Budget Support Emergency Act of 1998 (D.C. Act 12-401, July 13, 1998, 45 DCR 4794), § 602(c) of the Fiscal Year 1999 Budget Support Congressional Review Emergency Act of 1998 (D.C. Act 12-564, Janu-

ary 12, 1999, 46 DCR 669), and § 602(c) of the Fiscal Year 1999 Budget Support Congressional Review Emergency Act of 1999 (D.C. Act 13-41, March 31, 1999, 46 DCR 3446).

Section 2101 of D.C. Act 12-564 provides for the application of the act.

**Legislative history of Law 12-175.** — See note to § 21-1201.

### § 21-1205. Rules and regulations for implementation.

(a) Within 90 days of the effective date of this chapter, the Mayor shall issue proposed rules and regulations to implement this chapter. The rules and regulations issued shall include procedures for:

\* \* \* \* \*

(b) Training programs for all program employees who may be authorized to administer medication in accordance with this chapter shall be approved by the Mayor or shall be medication administration programs approved by the State of Maryland or the Commonwealth of Virginia. The Mayor may enter into agreements of reciprocity with other jurisdictions, under which training programs approved in such jurisdictions shall also be accepted in the District of Columbia. (Sept. 26, 1995, D.C. Law 11-52, § 601(b), 42 DCR 3684; Mar. 26, 1999, D.C. Law 12-175, § 1002(d), 45 DCR 7193.)

**Effect of amendments.** — D.C. Law 12-175 substituted "Mayor" for "District of Columbia Board of Nursing" in the introductory language of (a); and rewrote (b).

**Emergency act amendments.** — For temporary amendment of section, see § 602(d) of

the Fiscal Year 1999 Budget Support Emergency Act of 1998 (D.C. Act 12-401, July 13, 1998, 45 DCR 4794), § 602(d) of the Fiscal Year 1999 Budget Support Emergency Act of 1998 (D.C. Act 12-564, January 12, 1999, 46 DCR 669), and § 602(d) of the Fiscal Year 1999

Budget Support Congressional Review Emergency Act of 1999 (D.C. Act 13-41, March 31, 1999, 46 DCR 3446).

Section 2101 of D.C. Act 12-564 provides for

the application of the act.

**Legislative history of Law 12-175.** — See note to § 21-1201.

## CHAPTER 17. GENERAL FIDUCIARY RELATIONS.

### *Subchapter II. General Provisions.*

Sec.

21-1721. Investment of trust assets.

### *Subchapter II. General Provisions.*

## § 21-1721. Investment of trust assets.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 14(p), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated previously made technical corrections in the introductory paragraph of (a)(2) and (a-1)(1).

**Legislative history of Law 12-81.** — Law 12-81, the “Technical Amendments Act of 1998,” was introduced in Council and assigned Bill No. 12-408, which was referred to the Commit-

tee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

## CHAPTER 18. CHARITABLE AND SPLIT-INTEREST TRUSTS.

Sec.

21-1801. Charitable and split-interest trusts.

## § 21-1801. Charitable and split-interest trusts.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 14(q), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in (a)(4).

**Legislative history of Law 12-81.** — Law 12-81, the “Technical Amendments Act of 1998,” was introduced in Council and assigned Bill No. 12-408, which was referred to the Commit-

tee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.



## CHAPTER 20. GUARDIANSHIP, PROTECTIVE PROCEEDINGS, AND DURABLE POWER OF ATTORNEY.

### *Subchapter II. Definitions.*

Sec.

21-2011. Definitions.

### *Subchapter V. Guardians of Incapacitated Individuals.*

21-2042. Notice; guardianship proceeding.

### *Subchapter VI. Protection of Property of Incapacitated, Disappeared or Detained Individuals.*

21-2051. Protective proceedings.

Sec.

21-2057. Who may be appointed conservator; priorities.

21-2070. Powers of conservator in administration.

21-2071. Distributive duties and powers of conservator.

21-2076. Payment of debt and delivery of property to foreign conservator without local proceedings.

### *Subchapter II. Definitions.*

## § 21-2011. Definitions.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 14(r), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in (25)(I).

**Temporary amendment of section.** — Section 2(a) of D.C. Law 12-249 added (5A) to read as follows:

For the purposes of this chapter, the term:

\*\*\*\*\*

“(5A) “Emergency care” means immediate treatment, including diagnostic treatment, provided in response to a sudden, acute, and unanticipated medical crisis in order to avoid injury, extreme pain, impairment, or death.”

Section 5(b) of D.C. Law 12-249 provided that this act shall expire after 225 days of its having taken effect.

**Emergency act amendments.** — For temporary amendment of section, see § 2(a) of the Mentally Retarded Citizens Substituted Consent for Health Care Decisions Emergency Amendment Act of 1998 (D.C. Act 12-554, December 30, 1998, 45 DCR 566).

**Legislative history of Law 12-81.** — Law

12-81, the “Technical Amendments Act of 1998,” was introduced in Council and assigned Bill No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

**Legislative history of Law 12-249.** — Law 12-249, the “Mentally Retarded Citizens Substitute Consent for Health Care Decisions and Emergency Care Definition Temporary Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-757. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 24, 1998, it was assigned Act No. 12-588 and transmitted to both Houses of Congress for its review. D.C. Law 12-249 became effective on April 20, 1999.

### *Subchapter V. Guardians of Incapacitated Individuals.*

## § 21-2042. Notice; guardianship proceeding.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 14(s), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in (c).

**Legislative history of Law 12-81.** — See note to § 21-2011.

## § 21-2046. Emergency orders; temporary guardians.

**Temporary amendment of section.** — Section 2(b) of D.C. Law 12-249 amended the first sentence of (a) to read as follows:

“If an incapacitated individual has no guardian, a life threatening situation or a situation involving emergency care exists, and no other person appears to have authority to act within the circumstances, the court, on appropriate petition, may appoint a temporary guardian whose authority may not extend beyond 15 days and who may exercise those powers granted in the order.”

Section 5(b) of D.C. Law 12-249 provided that this act shall expire after 225 days of its having taken effect.

**Emergency act amendments.** — For temporary amendment of section, see § 2(b) of the Mentally Retarded Citizens Substituted Consent for Health Care Decisions Emergency Amendment Act of 1998 (D.C. Act 12-554, December 30, 1998, 45 DCR 566).

**Legislative history of Law 12-249.** — See note to § 21-2011.

### *Subchapter VI. Protection of Property of Incapacitated, Disappeared or Detained Individuals.*

## § 21-2051. Protective proceedings.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 14(t), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in the introductory paragraph of (b).

**Legislative history of Law 12-81.** — See note to § 21-2011.

## § 21-2057. Who may be appointed conservator; priorities.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 14(u), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in (b).

**Legislative history of Law 12-81.** — See note to § 21-2011.

## § 21-2060. Compensation and expenses.

**Cited in** In re Utley, App. D.C., 698 A.2d 446 (1997).

## § 21-2065. Accounts.

**Liability.** — Conservator was liable for \$300 from the ward's personal bank account, notwithstanding his claim that he did not make the withdrawals, where he had ample time to

present evidence supporting his claim but failed to do so. In re Estate of Elkins, App. D.C., 692 A.2d 910 (1995).

## § 21-2070. Powers of conservator in administration.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 14(v), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in (c)(19).

**Legislative history of Law 12-81.** — See note to § 21-2011.

**Liability.** — Conservator was liable for penalties and interest accruing as a result of his failure to file tax returns for the estate. In re Estate of Elkins, App. D.C., 692 A.2d 910 (1995).

Conservator was not liable for \$800 worth of personal property that he turned over to a storage company in light of the mounting storage bills, which had already accumulated to more than twice the value of the stored property. In re Estate of Elkins, App. D.C., 692 A.2d 910 (1995).

## § 21-2071. Distributive duties and powers of conservator.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 14(w), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in (4) and (5).

**Legislative history of Law 12-81.** — See note to § 21-2011.

## § 21-2076. Payment of debt and delivery of property to foreign conservator without local proceedings.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 14(x), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction in the introductory paragraph of (a).

**Legislative history of Law 12-81.** — See note to § 21-2011.

## § 21-2081. Definition.

**Cross references.** — As to durable power of attorney under the Uniform Statutory Form Power of Attorney Act of 1998, see § 21-2102.

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# CHAPTER 21. UNIFORM GENERAL POWER OF ATTORNEY.

- Sec.
- 21-2101. Statutory form of power of attorney.
  - 21-2102. Durable power of attorney.
  - 21-2103. Construction of powers generally.
  - 21-2104. Construction of power relating to real property transactions.
  - 21-2105. Construction of power relating to tangible personal property transactions.
  - 21-2106. Construction of power relating to stock and bond transactions.
  - 21-2107. Construction of power relating to commodity and option transactions.
  - 21-2108. Construction of power relating to banking and other financial institution transactions.

- Sec.
- 21-2109. Construction of power relating to business operating transactions.
  - 21-2110. Construction of power relating to insurance transactions.
  - 21-2111. Construction of power relating to estate, trust, and other beneficiary transactions.
  - 21-2112. Construction of power relating to claims and litigation.
  - 21-2113. Construction of power relating to personal and family maintenance.
  - 21-2114. Construction of power relating to benefits from social security, medicare, medicaid, or other governmental programs, or military service.



Sec.  
21-2115. Construction of power relating to retirement plan transactions.  
21-2116. Construction of power relating to tax matters.

Sec.  
21-2117. Existing interests; foreign interests.  
21-2118. Uniformity of application and construction.

## § 21-2101. Statutory form of power of attorney.

(a) The following statutory form of power of attorney is legally sufficient:

### STATUTORY POWER OF ATTORNEY

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE UNIFORM STATUTORY FORM POWER OF ATTORNEY ACT OF 1998. IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

I \_\_\_\_\_ (insert your name and address) appoint \_\_\_\_\_ (insert the name and address of the person appointed) as my agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS.

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

INITIAL \_\_\_\_\_ (A) Real property transactions, except transactions subject to D.C. Code § 45-601.

\_\_\_\_\_ (B) Tangible personal property transactions.

\_\_\_\_\_ (C) Stock and bond transactions.

\_\_\_\_\_ (D) Commodity and option transactions.

\_\_\_\_\_ (E) Banking and other financial institution transactions.

\_\_\_\_\_ (F) Business operating transactions.

\_\_\_\_\_ (G) Insurance and annuity transactions.

\_\_\_\_\_ (H) Estate, trust, and other beneficiary transactions.

\_\_\_\_\_ (I) Claims and litigation.

\_\_\_\_\_ (J) Personal and family maintenance.

\_\_\_\_\_ (K) Benefits from social security, medicare, medicaid, or other governmental programs, or military service.

\_\_\_\_\_ (L) Retirement plan transactions.

\_\_\_\_\_ (M) Tax matters.

\_\_\_\_\_ (N) ALL OF THE POWERS LISTED ABOVE.

YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).

SPECIAL INSTRUCTIONS: ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

This power of attorney will continue to be effective even though I become disabled, incapacitated, or incompetent.

STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO CONTINUE IF YOU BECOME DISABLED, INCAPACITATED, OR INCOMPETENT.

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party learns of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ , \_\_\_\_\_

\_\_\_\_\_  
(Your Signature)

\_\_\_\_\_  
(Your Social Security Number)

District of Columbia

This document was acknowledged before me on \_\_\_\_\_ (Date)  
by \_\_\_\_\_ (name of principal)

\_\_\_\_\_  
(Signature of notary public)

(Seal)

[My commission expires: \_\_\_\_\_ ]

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

(b) A statutory power of attorney is legally sufficient under this chapter if the wording of the form complies substantially with subsection (a) of this section, the form is properly completed, and the signature of the principal is acknowledged.

(c) If the line in front of line (N) of the form under subsection (a) of this section is initialed, an initial on the line in front of any other power does not limit the powers granted by line (N). (Sept. 18, 1998, D.C. Law 12-147, § 2, 45 DCR 3853.)

**Legislative history of Law 12-147.** — Law 12-147, the “Uniform Statutory Form Power of Attorney Act of 1998,” was introduced in Council and assigned Bill No. 12-157, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings

on April 7, 1998, and May 5, 1998, respectively. Signed by the Mayor on June 23, 1998, it was assigned Act No. 12-359 and transmitted to both Houses of Congress for its review. D.C. Law 12-147 became effective on September 18, 1998.

## § 21-2102. Durable power of attorney.

A power of attorney legally sufficient under this chapter is durable to the extent that durable powers are permitted by sections 21-2081 through 21-2085, or other law of the District of Columbia and the power of attorney contains language such as “This power of attorney will continue to be effective if I become disabled, incapacitated, or incompetent,” showing the intent of the principal that the power granted may be exercised notwithstanding later disability, incapacity, or incompetency. (Sept. 18, 1998, D.C. Law 12-147, § 2, 45 DCR 3853.)

**Cross references.** — As to durable power of attorney in general, see § 21-2081 et seq.

**Legislative history of Law 12-147.** — See note to § 21-2101.

## § 21-2103. Construction of powers generally.

By executing a statutory power of attorney with respect to a subject listed in section 21-2101(a), the principal, except as limited or extended by the principal in the power of attorney, empowers the agent, for that subject to:

(1) Demand, receive, and obtain by litigation or otherwise, money or other thing of value to which the principal is, may become, or claims to be entitled; and conserve, invest, disburse, or use anything so received for the purposes intended;

(2) Contract in any manner with any person, on terms agreeable to the agent, to accomplish a purpose of a transaction, and perform, rescind, reform, release, or modify the contract or another contract made by or on behalf of the principal;

(3) Execute, acknowledge, seal, and deliver a revocation, lease, notice, check, release, or other instrument the agent considers desirable to accomplish a purpose of a transaction;

(4) Prosecute, defend, submit to arbitration, settle, and propose or accept a compromise with respect to a claim existing in favor of or against the principal or intervene in litigation relating to the claim;

(5) Seek on the principal’s behalf the assistance of a court to carry out an act authorized by the power of attorney;

(6) Engage, compensate, and discharge an attorney, accountant, expert witness, or other assistant;

(7) Keep appropriate records of each transaction, including an accounting of receipts and disbursements;

(8) Prepare, execute, and file a record, report, or other document the agent considers desirable to safeguard or promote the principal’s interest under a statute or governmental regulation;

(9) Reimburse the agent for expenditures properly made by the agent in exercising the powers granted by the power of attorney; and

(10) In general, do any other lawful act with respect to the subject. (Sept. 18, 1998, D.C. Law 12-147, § 2, 45 DCR 3853.)



**Legislative history of Law 12-147.** — See note to § 21-2101.

## **§ 21-2104. Construction of power relating to real property transactions.**

(a) In a statutory power of attorney, the language granting power with respect to real property transactions empowers the agent to:

(1) Accept as a gift or as security for a loan, reject, demand, buy, lease, receive, or otherwise acquire, an interest in real property or a right incident to real property;

(2) Subject to subsection (b) of this subsection, subdivide, apply for zoning, rezoning, or other governmental permits, plat or consent to platting, develop, grant options concerning, lease, or sublease of real property;

(3) Release, assign, satisfy, and enforce by litigation or otherwise, a mortgage, deed of trust, encumbrance, lien, or other claim to real property which exists or is asserted, except with respect to instruments subject to section 45-601; and

(4) Do any act of management or of conservation with respect to an interest in real property, or a right incident to real property, owned, or claimed to be owned, by the principal, including:

(A) Insuring against a casualty, liability, or loss;

(B) Obtaining or regaining possession, or protecting the interest or right, by litigation or otherwise;

(C) Paying, compromising, or contesting taxes or assessments, or applying for and receiving refunds in connection with them; and

(D) Purchasing supplies, hiring assistance or labor, and making repairs or alterations in the real property;

(5) Use, develop, alter, replace, remove, erect, or install structures or other improvements upon real property in or incident to which the principal has, or claims to have, an interest or right;

(6) Participate in a reorganization with respect to real property or a legal entity that owns an interest in or right incident to real property and receive and hold shares of stock or obligations received in a plan of reorganization, and act with respect to them, including:

(A) Selling or otherwise disposing of them;

(B) Exercising or selling an option, conversion, or similar right with respect to them; and

(C) Voting them in person or by proxy;

(7) Change the form of title of an interest in or right incident to real property; and

(8) Dedicate to public use, with or without consideration, easements or other real property in which the principal has, or claims to have, an interest.

(b) This chapter may not be construed to authorize the use of the statutory form power of attorney under this chapter for a transaction that is subject to the execution and recordation requirements of section 45-601. (Sept. 18, 1998, D.C. Law 12-147, § 2, 45 DCR 3853.)

**Legislative history of Law 12-147.** — See note to § 21-2101.

### **§ 21-2105. Construction of power relating to tangible personal property transactions.**

In a statutory power of attorney the language granting power with respect to tangible personal property transactions empowers the agent to:

(1) Accept as a gift or as security for a loan, reject, demand, buy, receive, or otherwise acquire ownership or possession of tangible personal property or an interest in tangible personal property;

(2) Sell, exchange, convey with or without covenants, release, surrender, mortgage, encumber, pledge, hypothecate, create a security interest in, pawn, grant options concerning, lease, sublease to others, or otherwise dispose of tangible personal property or an interest in tangible personal property;

(3) Release, assign, satisfy, or enforce by litigation or otherwise, a mortgage, security interest, encumbrance, lien, or other claim on behalf of the principal with respect to tangible personal property or an interest in tangible personal property; and

(4) Do an act of management or conservation with respect to tangible personal property or an interest in tangible personal property on behalf of the principal, including:

(A) Insuring against casualty, liability, or loss;

(B) Obtaining or regaining possession, or protecting the property or interest, by litigation or otherwise;

(C) Paying, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with taxes or assessments;

(D) Moving from place to place;

(E) Storing for hire or on a gratuitous bailment; and

(F) Using, altering, and making repairs or alterations. (Sept. 18, 1998, D.C. Law 12-147, § 2, 45 DCR 3853.)

**Legislative history of Law 12-147.** — See note to § 21-2101.

### **§ 21-2106. Construction of power relating to stock and bond transactions.**

In a statutory power of attorney the language granting power with respect to stock and bond transactions empowers the agent to buy, sell, and exchange stocks, bonds, mutual funds, and all other types of securities and financial instruments, except commodity futures contracts, and call and put options on stocks and stock indexes, receive certificates, and other evidences of ownership with respect to securities, exercise voting rights with respect to securities in person or by proxy, enter into voting trusts, and consent to limitations on the right to vote. (Sept. 18, 1998, D.C. Law 12-147, § 2, 45 DCR 3853.)

**Legislative history of Law 12-147.** — See note to § 21-2101.

### **§ 21-2107. Construction of power relating to commodity and option transactions.**

In a statutory power of attorney the language granting power with respect to commodity and option transactions empowers the agent to buy, sell, exchange, assign, settle, and exercise commodity futures contracts and call and put options on stocks and stock indexes traded on a regulated option exchange, and establish, continue, modify, and terminate option accounts with a broker. (Sept. 18, 1998, D.C. Law 12-147, § 2, 45 DCR 3853.)

**Legislative history of Law 12-147.** — See note to § 21-2101.

### **§ 21-2108. Construction of power relating to banking and other financial institution transactions.**

In a statutory power of attorney the language granting power with respect to banking and other financial institution transactions empowers the agent to:

(1) Continue, modify, and terminate an account or other banking arrangement made by or on behalf of the principal;

(2) Establish, modify, and terminate an account or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm, or other financial institution selected by the agent;

(3) Hire a safe deposit box or space in a vault;

(4) Contract to procure other services available from a financial institution as the agent considers desirable;

(5) Withdraw by check, order, or otherwise money or property of the principal deposited with or left in the custody of a financial institution;

(6) Receive bank statements, vouchers, notices, and similar documents from a financial institution and act with respect to them;

(7) Enter a safe deposit box or vault and withdraw or add to the contents;

(8) Borrow money at an interest rate agreeable to the agent and pledge as security personal property of the principal necessary in order to borrow, pay, renew, or extend the time of payment of a debt of the principal;

(9) Make, assign, draw, endorse, discount, guarantee, and negotiate promissory notes, checks, drafts, and other negotiable or nonnegotiable paper of the principal, or payable to the principal or the principal's order, receive the cash or other proceeds of those transactions, accept a draft drawn by a person upon the principal, and pay it when due;

(10) Receive for the principal and act upon a sight draft, warehouse receipt, or other negotiable or nonnegotiable instrument;

(11) Apply for and receive letters of credit, credit cards, and traveler's checks from a financial institution, and give an indemnity or other agreement in connection with letters of credit; and

(12) Consent to an extension of the time of payment with respect to commercial paper or a financial transaction with a financial institution. (Sept. 18, 1998, D.C. Law 12-147, § 2, 45 DCR 3853.)



Legislative history of Law 12-147. — See note to § 21-2101.

## § 21-2109. Construction of power relating to business operating transactions.

In a statutory power of attorney the language granting power with respect to business operating transactions empowers the agent to:

(1) Operate, buy, sell, enlarge, reduce, and terminate a business interest;  
(2) To the extent that an agent is permitted by law to act for a principal and subject to the terms of the partnership agreement to:

(A) Perform a duty or discharge a liability and exercise a right, power, privilege, or option that the principal has, may have, or claims to have, under a partnership agreement, whether or not the principal is a partner;

(B) Enforce the terms of a partnership agreement by litigation or otherwise; and

(C) Defend, submit to arbitration, settle, or compromise litigation to which the principal is a party because of membership in the partnership;

(3) Exercise in person or by proxy, or enforce by litigation or otherwise, a right, power, privilege, or option the principal has or claims to have as the holder of a bond, share, or other instrument of similar character and defend, submit to arbitration, settle, or compromise litigation to which the principal is a party because of a bond, share, or similar instrument;

(4) With respect to a business owned solely by the principal:

(A) Continue, modify, renegotiate, extend, and terminate a contract made with an individual or a legal entity, firm, association, or corporation by or on behalf of the principal with respect to the business before execution of the power of attorney;

(B) Determine:

(i) The location of its operation;  
(ii) The nature and extent of its business;  
(iii) The methods of manufacturing, selling, merchandising, financing, accounting, and advertising employed in its operation;  
(iv) The amount and types of insurance carried; and  
(v) The mode of engaging, compensating, and dealing with its accountants, attorneys, and other agents and employees;

(C) Change the name or form of organization under which the business is operated and enter into a partnership agreement with other persons or organize a corporation to take over all or part of the operation of the business; and

(D) Demand and receive money due or claimed by the principal or on the principal's behalf in the operation of the business, and control and disburse the money in the operation of the business;

(5) Put additional capital into a business in which the principal has an interest;

(6) Join in a plan of reorganization, consolidation, or merger of the business;

(7) Sell or liquidate a business or part of it at the time and upon the terms the agent considers desirable;

(8) Establish the value of a business under a buy-out agreement to which the principal is a party;

(9) Prepare, sign, file, and deliver reports, compilations of information, returns, or other papers with respect to a business which are required by a governmental agency or instrumentality or which the agent considers desirable, and make related payments; and

(10) Pay, compromise, or contest taxes or assessments and do any other act which the agent considers desirable to protect the principal from illegal or unnecessary taxation, fines, penalties, or assessments with respect to a business, including attempts to recover, in any manner permitted by law, money paid before or after the execution of the power of attorney. (Sept. 18, 1998, D.C. Law 12-147, § 2, 45 DCR 3853.)

**Legislative history of Law 12-147.** — See note to § 21-2101.

## **§ 21-2110. Construction of power relating to insurance transactions.**

In a statutory power of attorney the language granting power with respect to insurance and annuity transactions empowers the agent to:

(1) Continue, pay the premium or assessment on, modify, rescind, release, or terminate a contract procured by or on behalf of the principal which insures or provides an annuity to either the principal or another person, whether or not the principal is a beneficiary under the contract;

(2) Procure new, different, and additional contracts of insurance and annuities for the principal and the principal's spouse, children, and other dependents; and select the amount, type of insurance or annuity, and mode of payment;

(3) Pay the premium or assessment on, modify, rescind, release, or terminate a contract of insurance or annuity procured by the agent;

(4) Designate the beneficiary of the contract, but an agent may be named a beneficiary of the contract, or an extension, renewal, or substitute for it, only to the extent the agent was named as a beneficiary under a contract procured by the principal before executing the power of attorney;

(5) Apply for and receive a loan on the security of the contract of insurance or annuity;

(6) Surrender and receive the cash surrender value;

(7) Exercise an election;

(8) Change the manner of paying premiums;

(9) Change or convert the type of insurance contract or annuity with respect to which the principal has or claims to have a power described in this section;

(10) Change the beneficiary of a contract of insurance or annuity, but the agent may not be designated a beneficiary except to the extent permitted by paragraph (4) of this section;

(11) Apply for and procure government aid to guarantee or pay premiums of a contract of insurance on the life of the principal;

(12) Collect, sell, assign, hypothecate, borrow upon, or pledge the interest of the principal in a contract of insurance or annuity; and

(13) Pay from proceeds or otherwise, compromise or contest, and apply for refunds in connection with, a tax or assessment levied by a taxing authority

with respect to a contract of insurance or annuity or its proceeds or liability accruing by reason of the tax or assessment. (Sept. 18, 1998, D.C. Law 12-147, § 2, 45 DCR 3853.)

**Legislative history of Law 12-147.** — See note to § 21-2101.

### **§ 21-2111. Construction of power relating to estate, trust, and other beneficiary transactions.**

In a statutory power of attorney the language granting power with respect to estate, trust, and other beneficiary transactions empowers the agent to act for the principal in all matters that affect a trust, probate estate, guardianship, conservatorship, escrow, custodianship, or other fund from which the principal is, may become, or claims to be entitled, as a beneficiary, to a share or payment, including to:

(1) Accept, reject, disclaim, receive, receipt for, sell, assign, release, pledge, exchange, or consent to a reduction in or modification of a share in or payment from the fund;

(2) Demand or obtain by litigation or otherwise money or other thing of value to which the principal is, may become, or claims to be entitled by reason of the fund;

(3) Initiate, participate in, and oppose litigation to ascertain the meaning, validity, or effect of a deed, will, declaration of trust, or other instrument or transaction affecting the interest of the principal;

(4) Initiate, participate in, and oppose litigation to remove, substitute, or surcharge a fiduciary;

(5) Conserve, invest, disburse, and use anything received for an authorized purpose; and

(6) Transfer an interest of the principal in stocks, bonds, accounts with financial institutions, insurance, and other property, to the trustee of a revocable trust created by the principal as settlor. (Sept. 18, 1998, D.C. Law 12-147, § 2, 45 DCR 3853.)

**Legislative history of Law 12-147.** — See note to § 21-2101.

### **§ 21-2112. Construction of power relating to claims and litigation.**

In a statutory power of attorney the language with respect to claims and litigation empowers the agent to:

(1) Assert and prosecute before a court or administrative agency a claim, a cause of action, counterclaim, offset, and defend against an individual, a legal entity, or government, including suits to recover property or other thing of value, to recover damages sustained by the principal, to eliminate or modify tax liability, or to seek an injunction, specific performance, or other relief;

(2) Bring an action to determine adverse claims, intervene in litigation, and act as *amicus curiae*;



(3) In connection with litigation, procure an attachment, garnishment, libel, order of arrest, or other preliminary, provisional, or intermediate relief and use an available procedure to effect or satisfy a judgment, order, or decree;

(4) In connection with litigation, perform any lawful act, including acceptance of tender, offer of judgment, admission of facts, submission of a controversy on an agreed statement of facts, consent to examination before trial, and binding the principal in litigation;

(5) Submit to arbitration, settle, and propose or accept a compromise with respect to a claim or litigation;

(6) Waive the issuance and service of process upon the principal, accept service of process, appear for the principal, designate persons upon whom process directed to the principal may be served, execute and file or deliver stipulations on the principal's behalf, verify pleadings, seek appellate review, procure and give surety and indemnity bonds, contract and pay for the preparation and printing of records and briefs, receive and execute and file or deliver a consent, waiver, release, confession of judgment, satisfaction of judgment, notice, agreement, or other instrument in connection with the prosecution, settlement, or defense of a claim or litigation;

(7) Act for the principal with respect to bankruptcy or insolvency proceedings, whether voluntary or involuntary, concerning the principal or some other person, with respect to a reorganization proceeding, or a receivership or application for the appointment of a receiver or trustee which affects an interest of the principal in property or other thing of value; and

(8) Pay a judgment against the principal or a settlement made in connection with litigation and receive and conserve money, or other thing of value paid in settlement of or as proceeds of a claim or litigation. (Sept. 18, 1998, D.C. Law 12-147, § 2, 45 DCR 3853.)

**Legislative history of Law 12-147.** — See note to § 21-2101.

## **§ 21-2113. Construction of power relating to personal and family maintenance.**

In a statutory power of attorney the language granting power with respect to personal and family maintenance empowers the agent to:

(1) Do the acts necessary to maintain the customary standard of living of the principal, the principal's spouse, children, and other individuals customarily or legally entitled to be supported by the principal, including providing living quarters by purchase, lease, or other contract, or paying the operating costs, including interest, amortization payments, repairs, and taxes on premises owned by the principal and occupied by those individuals;

(2) Provide for the individuals described in paragraph (1) of this section normal domestic help; usual vacations and travel expenses; and funds for shelter, clothing, food, appropriate education, and other current living costs;

(3) Pay for the individuals described in paragraph (1) of this section necessary medical, dental, and surgical care, hospitalization, and custodial care;

(4) Continue any provision made by the principal, for the individuals described in paragraph (1) of this section, for automobiles or other means of transportation, including registering, licensing, insuring, and replacing them;

(5) Maintain or open charge accounts for the convenience of the individuals described in paragraph (1) of this section and open new accounts the agent considers desirable to accomplish a lawful purpose; and

(6) Continue payments incidental to the membership or affiliation of the principal in a church, club, society, order, or other organization or to continue contributions to those organizations. (Sept. 18, 1998, D.C. Law 12-147, § 2, 45 DCR 3853.)

**Legislative history of Law 12-147.** — See note to § 21-2101.

## **§ 21-2114. Construction of power relating to benefits from social security, medicare, medicaid, or other governmental programs, or military service.**

In a statutory power of attorney the language granting power with respect to benefits from social security, medicare, medicaid or other governmental programs, or civil or military service empowers the agent to:

(1) Execute vouchers in the name of the principal for allowances and reimbursements payable by the United States or a foreign government or by a state or subdivision of a state to the principal, including allowances and reimbursements for transportation of the individuals described in section 21-2113(1), and for shipment of their household effects;

(2) Take possession and order the removal and shipment of property of the principal from a post, warehouse, depot, dock, or other place of storage or safekeeping, either governmental or private, and execute and deliver a release, voucher, receipt, bill of lading, shipping ticket, certificate, or other instrument for that purpose;

(3) Prepare, file, and prosecute a claim of the principal to a benefit or assistance, financial or otherwise, to which the principal claims to be entitled, under a statute or governmental regulation;

(4) Prosecute, defend, submit to arbitration, settle, and propose or accept a compromise with respect to any benefits the principal may be entitled to receive; and

(5) Receive the financial proceeds of a claim of the type described in this section, conserve, invest, disburse, or use anything received for a lawful purpose. (Sept. 18, 1998, D.C. Law 12-147, § 2, 45 DCR 3853.)

**Legislative history of Law 12-147.** — See note to § 21-2101.

## **§ 21-2115. Construction of power relating to retirement plan transactions.**

In a statutory power of attorney the language granting power with respect to retirement plan transactions empowers the agent to:

(1) Select payment options under any retirement plan in which the principal participates, including plans for self-employed individuals;

- (2) Designate beneficiaries under those plans and change existing designations;
- (3) Make voluntary contributions to those plans;
- (4) Exercise the investment powers available under any self-directed retirement plan;
- (5) Make “rollovers” of plan benefits into other retirement plans;
- (6) If authorized by the plan, borrow from, sell assets to, and purchase assets from the plan; and
- (7) Waive the right of the principal to be a beneficiary of a joint or survivor annuity if the principal is a spouse who is not employed. (Sept. 18, 1998, D.C. Law 12-147, § 2, 45 DCR 3853.)

**Legislative history of Law 12-147.** — See note to § 21-2101.

## § 21-2116. Construction of power relating to tax matters.

In a statutory power of attorney the language granting power with respect to tax matters empowers the agent to:

- (1) Prepare, sign, and file federal, state, local, and foreign income, gift, payroll, Federal Insurance Contributions Act returns, and other tax returns, claims for refunds, requests for extension of time, petitions regarding tax matters, and any other tax-related documents, including receipts, offers, waivers, consents, including consents and agreements under Internal Revenue Code, section 2032A or any successor section, closing agreements, and any power of attorney required by the Internal Revenue Service or other taxing authority with respect to a tax year upon which the statute of limitations has not run and the following 25 tax years;
- (2) Pay taxes due, collect refunds, post bonds, receive confidential information, and contest deficiencies determined by the Internal Revenue Service or other taxing authority;
- (3) Exercise any election available to the principal under federal, state, local, or foreign tax law; and
- (4) Act for the principal in all tax matters for all periods before the Internal Revenue Service and any other taxing authority. (Sept. 18, 1998, D.C. Law 12-147, § 2, 45 DCR 3853.)

**Legislative history of Law 12-147.** — See Code, § 2032A, referred to in (1), is 26 U.S.C. § 2032A.  
note to § 21-2101.

**References in text.** — Internal Revenue

## § 21-2117. Existing interests; foreign interests.

The powers described in sections 21-2103 through 21-2116 are exercisable equally with respect to an interest the principal has when the power of attorney is executed or acquires later, whether or not the property is located in the District of Columbia, and whether or not the powers are exercised or the power of attorney is executed in the District of Columbia. (Sept. 18, 1998, D.C. Law 12-147, § 2, 45 DCR 3853.)

**Legislative history of Law 12-147.** — See note to § 21-2101.



## § 21-2118. Uniformity of application and construction.

This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it. (Sept. 18, 1998, D.C. Law 12-147, § 2, 45 DCR 3853.)

**Legislative history of Law 12-147.** — See note to § 21-2101.

## CHAPTER 22. HEALTH-CARE DECISIONS.

Sec.  
21-2201. Purpose.  
21-2202. Definitions.

Sec.  
21-2205. Durable power of attorney for health care.

### § 21-2201. Purpose.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 14(y), 45 DCR 745.)

**Effect of amendments.** — D.C. Law 12-81 validated a previously made technical correction.

**Legislative history of Law 12-81.** — Law 12-81, the “Technical Amendments Act of 1998,” was introduced in Council and assigned Bill No. 12-408, which was referred to the Commit-

tee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

### § 21-2202. Definitions.

For the purposes of this chapter, the term:

(1) “Attorney in fact” means the person who receives the power of attorney for health-care decisions pursuant to the provisions of this chapter.

(2) “District” means the District of Columbia.

(3) “Durable power of attorney for health care” means a legally enforceable document that:

(A) Is executed in the District in a manner consistent with this chapter or validly executed in another jurisdiction pursuant to similar provisions of the law of that jurisdiction; and

(B) Creates a power of attorney for health-care decisions, which is effective upon, and only during incapacitation and is unaffected by the subsequent disability or incapacity of the principal as defined in this chapter.

(4) “Health-care provider” means any person or organizational entity, including health care facilities as defined in § 32-1301, licensed or otherwise authorized to provide health-care services in the District.

(5) “Incapacitated individual” means an adult individual who lacks sufficient mental capacity to appreciate the nature and implications of a health-care decision, make a choice regarding the alternatives presented or communicate that choice in an unambiguous manner.

(5A) “Member of a religious order or diocesan priest” means an unmarried adult who, by vow or other bond of commitment, voluntarily undertakes a style of living under the rule and direction of a religious order or community that

has been established for religious purposes and has been recognized and approved as a religious order or community by a church.

(6) "Principal" means a person who is competent to make health-care decisions for his or her own benefit or on his or her own account.

(7) "Religious superior" means a bishop or a member of a religious order who, under the approved constitution, laws, statutes, bylaws, or rules of the religious order or community, exercises authority over the particular community or unit of the religious order to which the member of the religious order or community belongs. (Mar. 24, 1998, D.C. Law 12-81, § 14(z), 45 DCR 745; Apr. 20, 1999, D.C. Law 12-264, § 57(c), 46 DCR 2118.)

**Effect of amendments.** — D.C. Law 12-81 purported to validate a previously made technical correction in (1).

D.C. Law 12-264 validated a previously made technical correction.

**Legislative history of Law 12-81.** — See note to § 21-2201.

**Legislative history of Law 12-264.** — Law 12-264, the "Technical Amendments Act of

1998," was introduced in Council and assigned Bill No. 12-804, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Signed by the Mayor on January 7, 1999, it was assigned Act No. 12-626 and transmitted to both Houses of Congress for its review. D.C. Law 12-264 became effective on April 20, 1999.

## § 21-2205. Durable power of attorney for health care.

\* \* \* \* \*

(Mar. 24, 1998, D.C. Law 12-81, § 14(aa), 45 DCR 745.)

### **Effect of amendments.**

D.C. Law 12-81 validated a previously made technical correction in (d).

### **Legislative history of Law 12-81.** — See

note to § 21-2201.









